

# COLLECTIVE BARGAINING LAWS IN MONTGOMERY COUNTY: A LEGISLATIVE HISTORY

## Appendix A

### Montgomery County Labor Relations Laws, 1976-Present

Current Montgomery County Charter Sections and Labor Relations Laws		Begins at ©
Charter of Montgomery County, Maryland §§ 510, 510A, and 511 (November 7, 2006)		1
Montgomery County Code, Chapter 33		
Article IV. Employer – Employee Relations (“Meet and Confer” Law)		3
Article V. Police Labor Relations		10
Article VII. County Collective Bargaining		29
Article X. Fire and Rescue Collective Bargaining		51
Bill Number	Subject	Begins at ©
11-76	Established “Meet and Confer” Law	73
37-78	Established annual cost-of-living adjustment for County Government employees	83
23-79	Removed minimum voting requirement to elect an employee organization under “meet and confer” law	87
16-81	Established maximum salary levels for certain County employees	89
18-81	Changed name of Personnel Board to Merit System Protection Board	93
71-81	Established Police Labor Relations law – collective bargaining for police officers	111
3-82	Amended section of law establishing maximum salary levels for certain County employees	131
24-82	Changed dates in Police Labor Relations law	135
13-83	Amended section of law establishing maximum salary levels for certain County employees	137
46-83	Adopted uniform procedures for promulgating Executive Regulations	139
19-86	Established County Collective Bargaining law – collective bargaining for County Government employees (excluding police officers and fire fighters)	239
48-87	Established Fire and Rescue collective bargaining unit in County Collective Bargaining law	285
3-93	Revises certain deadlines in Police Labor Relations law and County Collective Bargaining law	289
19-94	Changed name of Personnel Office to Office of Human Resources	295
21-96	Established Fire and Rescue Collective Bargaining law – separate collective bargaining process for career Fire and Rescue employees	299
26-99	Established binding arbitration process in County Collective Bargaining law	329
10-00	Added police sergeants to bargaining unit in Police Labor Relations law	343
9-01	Added temporary, seasonal, and substitute employees to bargaining units in County Collective Bargaining law	347
13-01	Added certain Fire and Rescue lieutenants and captains to bargaining unit in Fire and Rescue Collective Bargaining law	355
30-03	Revised certain procedures and practices in the three collective bargaining laws	359
19-04	Created process to resolve bargaining impasses over reopener issues and over “effects bargaining” in Police Labor Relations law	369
11-05	Added uniformed sergeants in Department of Correction and Rehabilitation to bargaining unit in County Collective Bargaining law	375
2-07	Clarified procedure for filling vacancies in position of Permanent Umpire or Labor Relations Administrator	379

**Charter of Montgomery County, Maryland**  
**November 7, 2006**

**Section 510**

**Collective Bargaining**

The Montgomery County Council shall provide by law for collective bargaining with binding arbitration with an authorized representative of the Montgomery County police officers. Any law so enacted shall prohibit strikes or work stoppages by police officers.

**Section 510A**

**Collective Bargaining-Fire Fighters**

The Montgomery County Council shall provide by law for collective bargaining with binding arbitration with an authorized representative of the Montgomery County career fire fighters. Any law so enacted shall prohibit strikes or work stoppages by career fire fighters.

**Section 510A**

**Collective Bargaining-County Employees**

The Montgomery County Council shall provide by law for collective bargaining, with binding arbitration or other impasse resolution procedures, with authorized representatives of officers and employees of the County government not covered by either Section 510 or Section 510A of this Charter. Any law so enacted shall prohibit strikes or work stoppages for such officers and employees.

This page is  
intentionally blank.

ARTICLE IV. EMPLOYER-EMPLOYEE RELATIONS.\*

Sec. 33-62. Reserved.

**Editor's note**—Section 33-62, relating to a statement of legislative intent, was repealed by 1996 L.M.C., ch. 26, § 1. The section had been derived from 1977 L.M.C., ch. 27, § 1; 1986 L.M.C., ch. 70, § 2.

Sec. 33-63. Definitions.

For the purposes of this article, the following words and phrases have the meanings indicated:

- (1) *Certification*: The procedure by which an employee organization is selected and recognized to represent the employee unit.
- (2) *Decertification*: The procedure by which the chief administrative officer withdraws county recognition of the employee organization with or without an election by the employees of the unit.
- (3) *Employee*: Any state-county merit system employee except persons described in subparagraphs 33-102(4)a, c, d, e, m, n, r, and s of article VII of this chapter.
- (4) *Employee organization*: Any organization that admits employees to membership and that has as a primary purpose the representation of employees in collective bargaining or meet and confer representation or both.
- (5) *Employee unit or unit*: All employees as defined in subsection 33-63(3) of this chapter.
- (6) *Position paper*: A nonbinding written memorandum reflecting all items discussed by the county and the employee organization.
- (7) *State-county merit system employee*: A state merit system employee whose salary is supplemented by the county. (1977 L.M.C., ch. 27, § 1; 1982 L.M.C., ch. 40, § 5; 1982 L.M.C., ch. 53, § 1; 1986 L.M.C., ch. 70, § 2.)

---

\***Editor's note**—In its revision of this article, 1986 L.M.C., ch. 70, § 2, retained the majority of the provisions of the article but gave them different section numbers. As a point of information, the editor has included a note following such sections giving the former section number.



**Sec. 33-64. Employee rights.**

- (a) An employee shall have the right, freely and without fear of penalty or reprisal, to form, join or assist and be represented by an employee organization or to refrain from any such activity.
- (b) The employees have the right to be represented by an employee organization, including the right to meet with representatives of the county concerning conditions of employment and the resolution of grievances.
- (c) Nothing in this article shall preclude the rights of an employee to pursue an individual grievance through established administrative procedures or through appeal to the personnel board, in that nothing in this article shall circumvent or shall be deemed to supersede or annul the provisions of the laws of the state, the county charter, or the laws and ordinances of the county, including the personnel regulations.
- (d) An employee who is not a member of an employee organization must never be required to become a member of an employee organization or to pay money to an employee organization except on a purely voluntary basis. (1977 L.M.C., ch. 27, § 1; 1986 L.M.C., ch. 70, § 2.)

**Sec. 33-65. Procedures for certification of an employee organization.**

- (a) The chief administrative officer, upon petition of an employee organization showing written evidence of interest by at least thirty (30) percent of the employees of the unit, shall arrange for the conducting of a secret ballot election to determine whether the employees desire such organization to act as their representative. Following such petition, the chief administrative officer shall give an appropriate notice to the employees.
- (b) An employee organization seeking to represent the unit shall submit to the personnel office a roster of its officers and representatives, a copy of its constitution and bylaws, and a schedule of dues for its members.
- (c) Eligibility to vote in any election for choice of an official representative shall be limited to persons who are employees as of the beginning of the pay period preceding the election date.
- (d) Elections will be conducted by the personnel office, which may use the services of the state division of labor and industry or any other third party having similar qualifications.
- (e) The ballot shall contain the name of any additional employee organization showing timely written evidence of interest by at least ten (10) percent of the employees within

MONTGOMERY COUNTY CODE  
Chapter 33

§33-65

the unit. In every instance, the ballot shall contain a provision for a marking of "no representation." Where more than one (1) employee organization is on the ballot and no one (1) of the organizations receives a majority vote of the employees voting, a runoff election shall be held. The runoff election shall contain the two (2) choices which received the largest and second largest number of votes in the original election.

- (f) When an organization receives at least fifty (50) percent of valid votes cast in the election, the chief administrative officer shall certify it as the official employee organization for the unit. If the majority vote is for "no representation," the chief administrative officer shall so certify.
- (g) If, during the thirty (30) days following the effective date of this revised article\*, a petition is filed by the incumbent meet and confer representative of unit employees certified under the prior article IV of this chapter, and no other employee organization files a valid petition, and no petition calling for an election signed by twenty (20) percent of unit employees has been filed with the chief administrative officer, the incumbent certified representative shall be certified without an election, provided it produces evidence, acceptable to the chief administrative officer and dated after the enactment of this revised article [June 24, 1986], that a majority of the employees in the unit desire to be represented by the incumbent representative for the purposes of meet and confer representation under the provisions of this revised article.

\*Editor's note—The effective date was September 29, 1986.

- (h) The county shall recognize as the official employee relations representative an employee organization that has been selected in accordance with procedures outlined in this section.
- (i) Recognizing an employee organization does not preclude the county from dealing with religious, social, fraternal, professional, or other lawful associations with respect to matters or policies that involve individual members of the associations or are of particular applicability to it or its members.
- (j) No question concerning certification may be raised by an employee or an employee organization within one (1) year of the date of certification of an employee organization or the date that a majority of the employees voting voted for no representation.
- (k) The county may, after discussions with an employee organization and on the basis of written authorization from each employee, provide for deduction from the pay of such employee monies in payment of membership dues in a duly certified employee

organization. Such monies shall be remitted to the employee organization. (1977 L.M.C., ch. 27, § 1; 1980 L.M.C., ch. 11, § 1; 1986 L.M.C., ch. 70, § 2.)

Note—Formerly, § 33-66.

**Sec. 33-66. Procedure for decertification of employee organizations.**

- (a) An employee organization shall be subject to decertification when thirty (30) percent of the employees in the employee unit petition for the employee organization to be decertified. The procedures for determining whether, in fact, an employee organization shall be decertified shall be the same as those prescribed in section 33-65 for the certification of an employee organization, except as provided in subsection (b) of this section.
- (b) If an employee organization fails to adhere to any of the provisions of section 33-72 dealing with employee organization responsibilities, then:
  - (1) Its certification may be revoked by the chief administrative officer after notice and an opportunity to be heard; and
  - (2) It may be disqualified by the chief administrative officer from participating in representation elections for a period of up to two (2) years after notice and an opportunity to be heard. (1977 L.M.C., ch. 27, § 1; 1986 L.M.C., ch. 70, § 2.)

Note—Formerly, § 33-67.

**Sec. 33-67. Costs of conducting elections.**

Any cost of conducting a secret ballot election under this article shall be borne fifty (50) percent by the county and fifty (50) percent borne equally by the employee organization(s) whose name(s) appear on the ballots. (1977 L.M.C., ch. 2, § 1; 1986 L.M.C., ch. 70, § 2.)

Note—Formerly, § 33-68.

**Sec. 33-68. County-employee organization meetings and discussions.**

- (a) An employee organization that has been recognized by the county under section 33-65 of this article shall be entitled to meet at reasonable times with county representatives to discuss with such representatives personnel policies, practices, and matters affecting working conditions of the employee unit it represents, so far as discussions may be appropriate under existing laws or regulations. The county shall meet at least two (2) times annually with the certified employee organization.

MONTGOMERY COUNTY CODE  
Chapter 33

§33-68

- (b) The requirement to meet shall not obligate either the county or the employee organization to agree to any proposal or to make any concession with respect to any matter discussed by the parties at such a meeting. Any decision made at any such meeting is in no way binding upon the parties.
- (c) The county and the employee organization may, if desired, and at the conclusion of their discussions, jointly or separately, prepare written position papers that reflect for future reference the respective positions of the parties on the issues discussed at such meetings. Such position papers shall in no way legally bind any party to the matters expressed in them, and the county shall not be obligated to concur in a position paper addressing the inherent right to manage the county government. (1977 L.M.C., ch. 27, § 1; 1986 L.M.C., ch. 70, § 2.)

Note—Formerly, § 33-69.

**Sec. 33-69. Employee organization representation of employee members.**

- (a) An employee who is a member of the employee organization may request and shall be granted the right for a member or representative of such organization to be present in any discussions or counseling with county representatives concerning an individual grievance.
- (b) The employee organization may submit a grievance concerning any dispute involving a claim of violation, misinterpretation, or misapplication of the personnel regulations or work practices of the county on the same basis as provided for individual grievances. (1977 L.M.C., ch. 27, § 1; 1986 L.M.C., ch. 70, § 2.)

Note—Formerly, § 33-70.

**Sec. 33-70. Disputes.**

All decisions of the chief administrative officer under the provisions of this article shall be final, subject to appeal to the merit system protection board where provided by law. (1977 L.M.C., ch. 27, § 1; 1982 L.M.C., ch. 40, § 5; 1986 L.M.C., ch. 70, § 2.)

Note—Formerly, § 33-71.

**Sec. 33-71. County responsibilities.**

It shall be the responsibility of the county not to:

- (a) Interfere with, restrain, or coerce an employee in the exercise of the rights assured by this article;

MONTGOMERY COUNTY CODE  
Chapter 33

- (b) Encourage or discourage membership in an employee organization by discrimination in regard to hiring, tenure, promotion, or other conditions of employment;
- (c) Sponsor, control, or otherwise assist the employee organization; except that the county may furnish customary and routine services and facilities when consistent with the best interest of the county, its employees, and the organization, and when the services and facilities are furnished, if requested, on an impartial basis to organizations having equivalent status;
- (d) Refuse to accord appropriate recognition to the employee organization qualified for such recognition; or
- (e) Refuse to consult, confer, or meet with an employee organization certified under this article. (1977 L.M.C., ch. 27, § 1; 1986 L.M.C., ch. 70, § 2.)

**Note**—Formerly, § 33-72.

**Sec. 33-72. Employee organization responsibilities.**

It shall be the responsibility of every employee organization not to:

- (a) Interfere with, restrain or coerce an employee in the exercise of the rights assured by this article;
- (b) Attempt to induce the county to coerce an employee in the exercise of the rights under this article;
- (c) Coerce, attempt to coerce, or discipline, fine, or take other economic sanction against an employee member of an employee organization as punishment or reprisal, or for the purpose of hindering or impeding work performance or the discharge of duties owed as an employee of the county;
- (d) Call or engage in a strike, work stoppage, or slowdown, picket the county in connection with a strike, work stoppage, or slowdown in a county-employee dispute, or condone any such activity by failing to take affirmative action to prevent or stop it;
- (e) Discriminate against an employee with regard to the terms or conditions of membership because of race, color, religion, creed, sex, age, national origin, ancestry, or marital status. (1977 L.M.C., ch. 27, § 1; 1986 L.M.C., ch. 70, § 2.)

**Note**—Formerly, § 33-73.

**Sec. 33-73. Reserved.**

Note—The provisions of former § 33-73 are now found in § 33-72.

**Sec. 33-74. Cost-of-living adjustment.**

- (a) The county executive shall provide as a part of the annual recommended operating budget for the county government sufficient funds to implement the cost-of-living adjustment required by this section. The council shall accord one of the highest priorities to the full funding of the cost-of-living adjustment, shall fund fully the seventy-five (75) percent of Consumer Price Index cost-of-living adjustment unless reasons are given for not doing so, and shall make a finding in the budget resolution as to the extent to which full funding is achieved. Unless otherwise provided in the approved budget resolution which includes a finding that implementation of the full amount of the adjustment would necessitate substantial layoffs of personnel or result in other widespread hardship to county government employees, the chief administrative officer shall adjust the uniform salary plan for all classified employees of the county government beginning the first pay period on or after July 1 of each year by an amount not less than seventy-five (75) percent of the change in the Consumer Price Index for All Urban Consumers in the Washington, D.C. Area, although pay grades 1 through 4 of the uniform salary plan to which minimum wage and certain seasonal employees are assigned will be adjusted by changes in the minimum wage rates and salary surveys to determine the competitiveness of such salaries. The percentage change shall be based on the latest published index for the calendar year preceding the fiscal year in which the adjustment is to be paid.

The chief administrative officer may adjust the uniform salary plan in excess of the base percentage of seventy-five (75) percent, provided funds are available and approved by the county council for such purpose.

- (b) Notwithstanding the provisions in (a) above, for fiscal year 1984 only, the following salary controls shall apply:
- (1) The chief administrative officer shall adjust the salary maxima in effect as of June 30, 1983 for grades 5 through 37 by the full cost-of-living granted by the county council.
  - (2) The salary maxima for grades 38, 39 and 40 shall be sixty-eight thousand dollars (\$68,000.00), sixty-nine thousand dollars (\$69,000.00) and seventy thousand dollars (\$70,000.00), respectively.
  - (3) The salary for all merit employees will be adjusted by the full cost-of-living granted by the county council to the extent that such salary adjustment does not exceed the maximum of the employee's grade.

- (c) The provisions of this section shall not apply to an employee of the police department, as defined in section 33-76 of this chapter, who is represented by a certified employee organization pursuant to the provisions of article V, title "Police Labor Relations," of this chapter.
- (d) This section is automatically repealed upon certification that the county merit system employees in the units established under article VII are represented for the purpose of collective bargaining under article VII of this chapter. (1979 L.M.C., ch. 39, § 2; 1981 L.M.C., ch. 45, § 1; 1982 L.M.C., ch. 47, § 1; 1982 L.M.C., ch. 53, § 2; 1983 L.M.C., ch. 40, § 1; 1986 L.M.C., ch. 70, § 2.)

### ARTICLE V. POLICE LABOR RELATIONS.\*

#### Sec. 33-75. Declaration of policy.

It is the public policy of this county, pursuant to charter section 510, enacted as a result of citizen initiative, and purpose of this article to promote a harmonious, peaceful and cooperative relationship between the county government and its police employees and to protect the public by assuring, at all times, the responsive, orderly and efficient operation of the police department. Since unresolved disputes in the police service are injurious to the public and to police employees as well, adequate means should be provided for preventing such unresolved disputes and for resolving them when they occur. To that end, it is in the public interest that police employees have the opportunity to bargain collectively over wages, hours, and other terms and conditions of employment through a representative of their choice or to refrain therefrom; and that any collective bargaining between the county government and a representative of those police employees be done in good faith with no interference with the orderly process of government and furthermore, that agreements reached through collective bargaining be implemented.

It is also recognized, however, that police employee organizations and the county government each possess substantial means by which they may initiate actions regarding the wages, hours and working conditions of employees. Consequently, in order to preserve an appropriate balance between labor and management in the police service, the council hereby declares that once a representative has been voluntarily selected, collective bargaining shall be utilized in place of, but not in addition to, existing means of initiating governmental action as to those subjects which are defined as appropriate for collective bargaining in this article. (1982 L.M.C., ch. 53, § 3.)

**Editor's note**—Section 33-75 is cited in Mayor and City Council for Ocean City v. Bunting 168 Md. App. 134, 895 A.2d 1068 (2006).

-----  
**\*Editor's note**—Article V, sections 33-75 through 33-85, was added by § 3 of 1982 L.M.C., ch. 53, enacted Apr. 6, 1982, effective July 16, 1982. Section 2 of 1982 L.M.C., ch. 58, changed the effective date to the date on which ch. 53 became law.

**Charter reference**—Collective bargaining for police, § 510.

**Sec. 33-76. Definitions.**

When used in this article:

*Agency shop* means a provision in a collective bargaining agreement requiring, as a condition of continued employment, that bargaining unit employees pay a service fee not to exceed the monthly membership dues uniformly and regularly required by the employee organization of all of its members. An agency shop agreement shall not require the payment of initiation fees, an assessment, fines or any other collections or their equivalent, as a condition of continued employment.

*To bargain collectively* means to meet at reasonable times and places and to negotiate in good faith with respect to appropriate subjects as set out in subsection 33-80(a) of this article.

*Certified representative* means an employee organization selected in accordance with this chapter to represent a unit.

*Employee* means any police officer classified as a sergeant, master police officer I, master police officer II, police officer I, police officer II, police officer III, or police officer candidate, or an equivalent nonsupervisory classification, but not a police officer in any higher classification.

*Employer* means the county executive and the Executive's designees.

*Employee organization* means any organization which admits to membership employees and which has as a primary purpose the representation of such employees in collective bargaining, and includes any person acting as an officer, representative or agent of said organization. Such organization shall not admit to membership any person other than law enforcement officers.

*Lockout* means any action taken by the employer to interrupt or prevent the continuity of work properly and usually performed by the employee for the purpose and with the intent of either coercing the employees into relinquishing rights guaranteed by this article or of bringing economic pressure on employees for the purpose of securing the agreement of their certified representative to certain collective bargaining terms.

*Mediation* means an effort by an impartial third party confidentially to assist in resolving, through interpretation, suggestion and advice, a dispute arising out of collective bargaining between the employer and the certified representative.

*Strike* means a concerted failure to report for duty, absence, stoppage of work, or abstinence in whole or in part from the full and faithful performance of the duties of employment with the employer, or deviation from normal or proper work duties or activities, where any of the preceding are done in a concerted manner for the purpose of inducing, influencing or coercing the employer in the determination, implementation, interpretation, or administration of terms or conditions of employment or of the rights,



*Unit* means all employees. (1982 L.M.C., ch. 53, § 3; 2000 L.M.C., ch. 16, § 1.)

**Editor's note**—Section 33-76 is cited in Mayor and City Council for Ocean City v. Bunting 168 Md. App. 134, 895 A.2d 1068 (2006).

**Sec. 33-77. Permanent umpire.**

- (a) There is hereby created the position of permanent umpire, so as to provide for the effective implementation and administration of sections 33-79 and 33-82 of this article concerning selection, certification and decertification procedures and prohibited practices. The permanent umpire shall exercise the following powers and perform the following duties and functions:
- (1) Adopt regulations under method (1) of section 2A-15 of this Code, for the implementation and administration of sections 33-79 and 33-82 as are consistent with this article;
  - (2) Request from the employer or any employee organization, and the employer or such organization may at its discretion provide, such relevant assistance, service and data as will enable the permanent umpire to properly carry out his functions;
  - (3) Hold hearings and make inquiries, administer oaths and affirmations, examine witnesses and documents, take testimony and receive evidence, and compel by issuance of subpoenas the attendance of witnesses and the production of relevant documents;
  - (4) Hold and conduct elections for certification or decertification pursuant to the provisions of this article and issue said certification or decertification;
  - (5) Investigate and attempt to resolve or settle, as provided in this article, charges of engaging in prohibited practices; however, if the employer and a certified representative have negotiated a valid grievance procedure, the permanent umpire must defer to that procedure for the resolution of disputes properly submissible to the procedure absent a showing that such deferral will result or has resulted in the application of principles repugnant to this article; furthermore, the permanent umpire shall defer to state procedures in those matters which are governed by the law enforcement officers bill of rights, article 27, sections 727 et seq., Annotated Code of Maryland.\*
- \*Editor's note**—Md. Ann. Code art. 27, § 727, et. seq. appears in Md. Code Ann., Public Safety, Title 3, Subtitle 1 (2003).
- (6) Obtain any necessary support services and make necessary expenditures in the performance of duties to the extent provided for these purposes in the annual budget of Montgomery County; and

- (7) Exercise any other powers and perform any other duties and functions as may be specified in sections 33-79 and 33-82 of this article.
- (b) The permanent umpire must be appointed by the County Executive, subject to confirmation by the County Council, serve for a term of 5 years, and may be reappointed to another 5-year term. The permanent umpire must not be reappointed if, during the period between 60 days and 30 days before the umpire's term expires, the certified representative files a written objection to the umpire's reappointment with the County Executive.
- (c) If the permanent umpire dies, resigns, becomes disabled, or otherwise becomes unable or ineligible to continue to serve, the Executive must appoint a new permanent umpire, subject to confirmation by the Council, to serve the remainder of the previous umpire's term. The umpire appointed under this subsection may be reappointed under subsection (b).
- (d) The permanent umpire must be a person with experience as a neutral in the field of labor relations and must not be a person who, because of vocation, employment, or affiliation, can be categorized as a representative of the interests of the employer or any employee organization.
- (e) The permanent umpire must be paid a daily fee as specified in a contract with the County, and must be reimbursed for necessary expenses incurred in performing the duties of umpire. (1982 L.M.C., ch. 53, § 3, 1984 L.M.C., ch. 24, § 39; 2007 L.M.C., ch. 1, § 1.)

**Sec. 33-78. Employee rights.**

- (a) Employees shall have the right:
  - (1) To form, join, support, contribute to, or participate in, or to refrain from forming, joining, supporting, contributing to, or participating in, any employee organization or its lawful activities; and
  - (2) To be fairly represented by their certified representative, if any.
- (b) The employer must extend to the certified representative the exclusive right to represent the employees for the purposes of collective bargaining, including the orderly processing and settlement of grievances as agreed by the parties.
- (c) A certified representative must serve as the bargaining agent for all employees and must represent fairly and without discrimination all employees without regard to whether the employees are members of the employee organization, pay dues or other contributions to it, or participate in its affairs. However, it is not a violation of this duty for a certified representative to seek enforcement of an agency shop provision in a valid collective bargaining agreement.

- (d) The right of the certified representative to receive membership dues deductions or agency shop provisions shall be determined through negotiations, unless the authority to negotiate such provisions has been suspended under section 33-84. No collective bargaining agreement may include a provision requiring membership in, participation in the affairs of, or contributions to an employee organization other than an agency shop provision. (1982 L.M.C., ch. 53, § 3; 2000 L.M.C., ch. 16, § 1.)

**Sec. 33-79. Selection, certification and decertification procedures.**

- (a) The certification or decertification of an employee organization as the unit's representative for the purpose of collective bargaining shall be initiated in accordance with the following procedures:
- (1) Any employee organization seeking certification as representative of the unit shall file a petition stating its name, address and its desire to be certified with the permanent umpire, and shall transmit forthwith a copy of such, not including the names of the supporting employees, to the employer. Said petition must contain the uncoerced signature of thirty (30) percent of the employees within the unit signifying their desire to be represented by the employee organization for purposes of collective bargaining.
  - (2) Where an employee organization has been certified, an employee within the unit may file a petition with the permanent umpire and shall transmit forthwith a copy of such to the employer and the certified representative, not including the names of the supporting employees, for decertification of the certified representative. The petition must contain the uncoerced signatures of at least thirty (30) percent of the employees within the unit alleging that the employee organization presently certified is no longer the choice of the majority of the employees in the unit.
  - (3) The employer may file a petition with the permanent umpire seeking an election for certification of an employee organization or, where an employee organization is so certified, to cause decertification of the representative where the employer has reason to believe that the certified representative is not or is no longer the choice of the majority of the employees of the unit, and shall transmit a copy of such to the employee organization seeking to obtain or retain certification.
  - (4) Petitions may be filed between September 1 and September 30 of any year, but no sooner than 22 months following an election held pursuant to this section.
  - (5) If a lawful collective bargaining agreement is in effect, no petition shall be entertained unless filed during September of the final year of the agreement.
- (b) If the permanent umpire determines that a petition is properly supported and timely filed, the permanent umpire shall cause an election of all eligible employees to be held within a

reasonable time, but no later than October 20 of that year, to determine if and by whom the employees wish to be represented, as follows:

- (1) All elections shall be conducted under the supervision of the permanent umpire and shall be conducted by secret ballot at such time and place as the permanent umpire may direct. The permanent umpire may select and retain services of an agency of the State of Maryland, or similarly neutral body to assist in conducting the election.
  - (2) The election ballots shall contain, as choices to be made by the voter, the names of the petitioning or certified employee organization, the name or names of any other employee organization showing written proof at least ten (10) days before the election of at least ten (10) percent representation of the employees within the unit, and a choice that the employee does not desire to be represented by any of the named employee organization(s).
  - (3) The employer and each party to the election may be represented by observers selected in accordance with such limitations and conditions as the permanent umpire may prescribe.
  - (4) Observers may challenge for good cause the eligibility of any person to vote in the election. Challenged ballots shall be impounded pending either agreement of the parties as to the validity of such challenge or the permanent umpire's decision thereon, unless the number of challenges is not determinative, in which latter event the challenged ballot(s) shall be destroyed.
  - (5) After the polls have been closed, the valid ballots cast shall be counted by the permanent umpire in the presence of the observers.
  - (6) The permanent umpire immediately shall prepare and serve upon the employer and each of the parties a report certifying the results of the election. If, and only if, an employee organization has received the votes of a majority of the employees who voted, the permanent umpire shall certify the employee organization so elected as the exclusive agent. If no employee organization has received the votes of a majority of the employees, the permanent umpire shall certify no representative, but if a majority of the employees do not vote for no representation, a runoff election shall be conducted. The runoff election shall contain the two (2) choices which received the largest and second largest number of votes in the original election.
- (c) The aforesaid certification of results shall be final unless, within seven (7) days after service of the report and certification, the employer or any other party serves on all parties and files with the permanent umpire objections to the election. Objections shall be verified and shall contain a concise statement of facts constituting the grounds thereof. The permanent umpire shall investigate the objections and, if substantial factual

issues exist, the permanent umpire shall hold a hearing thereon. Otherwise, the permanent umpire may determine the matter without hearing. The permanent umpire may invite, either by rule or by invitation, written or oral argument to assist in determination of the merits of the objections. If the permanent umpire finds that the election was conducted in substantial conformity with this article, the permanent umpire shall confirm the certification initially issued. If the permanent umpire finds that the election was not held in substantial conformity with this article, the permanent umpire shall cause another election to be held pursuant to the provisions of this section.

- (d) The cost of conducting an election shall be paid by the county.
- (e) Voluntary recognition is prohibited under this article, and no certification may be issued without an election except as provided for in subsection 33-79(a)(6). (1982 L.M.C., ch. 53, § 3; 2003 L.M.C., ch. 22, § 1.)

**Sec. 33-80. Collective bargaining.**

- (a) *Duty to bargain; matters subject to bargaining.* A certified employee organization and the employer must bargain collectively on the following subjects:
  - (1) Salary and wages, provided, however, that salaries and wages shall be uniform for all employees in the same classification;
  - (2) Pension and retirement benefits for active employees only;
  - (3) Employee benefits such as, but not limited to, insurance, leave, holidays and vacation;
  - (4) Hours and working conditions, including the availability and use of personal patrol vehicles;
  - (5) Provisions for the orderly processing and settlement of grievances concerning the interpretation and implementation of the collective bargaining agreement, which may include binding third party arbitration and provisions for exclusivity of forum;
  - (6) Matters affecting the health and safety of employees; and
  - (7) The effect on employees of the employer's exercise of rights listed in subsection (b).
- (b) *Employer rights.* This article and any agreement pursuant hereto shall not impair the right and responsibility of the employer.
  - (1) To determine the overall budget and mission of the employer and any agency of county government;

- (2) To maintain and improve the efficiency and effectiveness of operations;
  - (3) To determine the services to be rendered and the operations to be performed;
  - (4) To determine the overall organizational structure, methods, processes, means, job classifications or personnel by which operations are to be conducted and the location of facilities;
  - (5) To direct or supervise employees;
  - (6) To hire, select and establish the standards governing promotion of employees and to classify positions;
  - (7) To relieve employees from duties because of lack of work or funds, or under conditions when the employer determines continued work would be inefficient or nonproductive;
  - (8) To make and enforce rules and regulations not inconsistent with this law or a collective bargaining agreement;
  - (9) To take actions to carry out the mission of government in situations of emergency;
  - (10) To transfer, assign and schedule employees.
- (c) *Exemption.* Nothing contained in this article shall be construed to limit the discretion of the employer voluntarily to discuss with the representatives of its employees any matter concerning the employer's exercise of any of the enumerated rights set forth in subsection 33-80(b) above, but such matters shall not be subject to bargaining.
- (d) *Time limits.* Collective bargaining shall commence no later than November 1 preceding a fiscal year for which there is no contract between the employer and the certified representative and shall be concluded by January 20. The resolution of an impasse in collective bargaining shall be completed by February 1. These time limits may be waived only by prior written consent of the parties.
- (e) *Term of agreement.* Any provision of automatic renewal or extension of a collective bargaining agreement shall be void. No agreement shall be valid if it extends for less than one year or for more than three years. All agreements shall become effective July 1 and end June 30.
- (f) *Effective date of agreement.* Any collective bargaining agreement shall become effective only after ratification of the agreement by the employer and the certified representative, except as provided in subsection 33-81(b)(7). A certified representative may provide its own rules for ratification procedures.

- (g) *Submission to Council.* A ratified agreement shall be binding on the employer and the certified representative, and shall be reduced to writing and executed by both parties. In each proposed annual operating budget, the County Executive shall describe any collective bargaining agreement or amendment to an agreement that is scheduled to take effect in the next fiscal year and estimate the cost of implementing that agreement. Any term or condition of a collective bargaining agreement which requires an appropriation of funds or enactment, repeal or modification of a County law shall be timely submitted to the County Council by the employer by April 1, unless extenuating circumstances require a later date. If a later submission is necessary, the employer shall specify the submission date and the reasons for delay to the Council President by April 1. The employer shall make a good faith effort to have such term or condition implemented by Council action. Each submission to the Council shall include:
- (1) all proposed legislation and regulations necessary to implement the collective bargaining agreement;
  - (2) all changes from the previous collective bargaining agreement, indicated by brackets and underlines or a similar notation system; and
  - (3) all side letters or other extraneous documents that are binding on the parties.
- (h) *Council review.* On or before May 1, the County Council shall indicate by resolution its intention to appropriate funds for or otherwise implement the agreement or its intention not to do so, and shall state its reasons for any intent to reject any part of the agreement. The Council, by majority vote taken on or before May 1, may defer the May 1 deadline to any date not later than May 15. If the Council indicates its intention to reject any part, it shall designate a representative to meet with the parties and present the Council's views in their further negotiations. This representative shall also participate fully in stating the Council's position in any ensuing impasse procedure. The parties shall thereafter meet as promptly as possible and attempt to negotiate an agreement acceptable to the Council. Either of the parties may initiate the impasse procedure set forth in Section 33-81. The results of the negotiation or impasse procedure shall be submitted to the Council on or before May 10. If the Council has deferred the May 1 deadline, that action automatically postpones the May 10 deadline by the same number of days.
- (i) *Adjustments.* Any agreement shall provide either for automatic reduction or elimination of conditional wage or benefits adjustments if:
- (1) the Council does not take action necessary to implement the agreement, or
  - (2) sufficient funds are not appropriated for any fiscal year when the agreement is in effect.

MONTGOMERY COUNTY CODE  
Chapter 33

§33-80

- (j) *Later years.* The process and timetable in subsection (h) apply to Council review of wage or benefits adjustments after the first year of any multi-year agreement.
- (k) *Out-of-cycle amendments.* The process in subsection (h) applies to Council review of any amendment to a collective bargaining agreement that the Council receives after May 15 of any year, but the deadlines in subsection (h) do not apply. The Council President shall set action deadlines which result, to the extent feasible, in a similar timetable relative to the date the Council received the amendment. (1982 L.M.C., ch. 53, § 3.; 1993 L.M.C., ch. 12, § 1; 2000 L.M.C., ch. 16, § 1; 2003 L.M.C., ch. 22, § 1.)

**Sec. 33-81. Impasse procedure.**

- (a) Before September 10 of any year in which the employer and a certified representative bargain collectively, they shall choose an impasse neutral either by agreement or through the processes of the American Arbitration Association. The impasse neutral shall be required to be available during the period from January 20 to February 1. Fees, costs and expenses of the impasse neutral shall be shared equally by the employer and the certified representative.
- (b)
  - (1) During the course of collective bargaining, either party may declare an impasse and request the services of the impasse neutral. If the parties have not reached agreement by January 20, an impasse shall be deemed to exist.
  - (2) Whenever an impasse has been reached, the dispute shall be submitted to the impasse neutral. The impasse neutral shall attempt mediation by bringing the parties together voluntarily under such favorable auspices as will tend to effectuate the settlement of the dispute.
  - (3) If the impasse neutral, in the impasse neutral's sole discretion, finds that the parties are at a bona fide impasse, the impasse neutral shall require each party to submit a final offer which shall consist either of a complete draft of a proposed collective bargaining agreement or a complete package proposal, as the impasse neutral shall choose. If only complete package proposals are required, the impasse neutral shall require the parties to submit jointly a memorandum of all items previously agreed upon.
  - (4) The impasse neutral may, in the impasse neutral's discretion, require the parties to submit evidence or make oral or written argument in support of their proposals. The impasse neutral may hold a hearing for this purpose at a time, date and place selected by the impasse neutral. Said hearing shall not be open to the public.



MONTGOMERY COUNTY CODE  
Chapter 33

- (5) On February 1 or prior thereto, the impasse neutral shall select, as a whole, the more reasonable, in the impasse neutral's judgment, of the final offers submitted by the parties. The impasse neutral may take into account only the following factors:
- a. Past collective bargaining contracts between the parties, including the past bargaining history that led to such contracts, or the pre-collective bargaining history of employee wages, hours, benefits and working conditions;
  - b. Comparison of wages, hours, benefits and conditions of employment of similar employees of other public employers in the Washington Metropolitan Area and in Maryland;
  - c. Comparison of wages, hours, benefits and conditions of employment of other Montgomery County personnel;
  - d. Wages, benefits, hours and other working conditions of similar employees of private employers in Montgomery County;
  - e. The interest and welfare of the public;
  - f. The ability of the employer to finance economic adjustments and the effect of the adjustments upon the normal standard of public services by the employer.
- (6) The impasse neutral shall not compromise or alter the final offer that he selects. Selection of an offer shall be based on the contents of that offer. No consideration shall be given to, nor shall any evidence or argument be received concerning the history of collective bargaining in this immediate dispute, including offers of settlement not contained in the offers submitted to the impasse neutral. However, the impasse neutral shall consider all previously agreed upon items integrated with the specific disputed items to determine the single most reasonable offer.
- (7) The offer selected by the impasse neutral, integrated with the previously agreed upon items, shall be deemed to represent the final agreement between the employer and the certified representative, without the necessity of ratification by the parties, and shall have the force and effect of a contract voluntarily entered into and ratified as set forth in subsection 33-80(g) above. The parties shall execute such agreement.

MONTGOMERY COUNTY CODE  
Chapter 33

§ 33-81

- (c) An impasse over a reopener matter or the effects on employees of an exercise of an employers right must be resolved under the procedures in this subsection. Any other impasse over a matter subject to collective bargaining must be resolved under the impasse procedure in subsections (a) and (b).
- (1) Reopener matters.
- (A) If the parties agree in a collective bargaining agreement to bargain over an identified issue on or before a specified date, the parties must bargain under those terms. Each identified issue must be designated as a "reopener matter."
- (B) When the parties initiate collective bargaining under subparagraph (A), the parties must choose, by agreement or through the processes of the American Arbitration Association, an impasse neutral who agrees to be available for impasse resolution within 30 days.
- (C) If, after bargaining in good faith, the parties are unable to reach agreement on a reopener matter by the deadline specified in the collective bargaining agreement, either party may declare an impasse.
- (D) If an impasse is declared under subparagraph (C), the dispute must be submitted to the impasse neutral no later than 10 days after impasse is declared.
- (E) The impasse neutral must resolve the dispute under the impasse procedure in subsection (b), except that:
- (i) the dates in that subsection do not apply;
- (ii) each party must submit to the impasse neutral a final offer on only the reopener matter; and
- (iii) the impasse neutral must select the most reasonable of the parties' final offers no later than 10 days after the impasse neutral receives the final offers.
- (F) This subsection applies only if the parties in their collective bargaining agreement have designated:
- (i) the specific reopener matter to be bargained;
- (ii) the date by which bargaining on the reopener matter must begin; and

- (iii) the deadline by which bargaining on the reopener matter must be completed and after which the impasse procedure must be implemented.
- (2) Bargaining over the effects of the exercise of an employer right.
  - (A) If the employer notifies the employee organization that it intends to exercise a right listed in Section 33-80(b), the exercise of which will have an effect on members of the bargaining unit, the parties must choose by agreement or through the process of the American Arbitration Association an impasse neutral who agrees to be available for impasse resolution within 30 days.
  - (B) The parties must engage in good faith bargaining on the effects of the exercise of the employer right. If the parties, after good faith bargaining, are unable to agree on the effect on bargaining unit employees of the employer's exercise of its right, either party may declare an impasse.
  - (C) If the parties bargain to impasse over the effects on employees of an exercise of an employer right that has a demonstrated, significant effect on the safety of the public, the employer may implement its last offer before engaging in the impasse procedure. A party must not exceed a time requirement of the impasse procedure. A party must not use the procedure in this paragraph for a matter that is a mandatory subject of bargaining other than the effects of the exercise of an employer right.
  - (D) The parties must submit the dispute to the impasse neutral no later than 10 days after either party declares an impasse under subparagraph (B).
  - (E) The impasse neutral must resolve the dispute under the impasse procedures in subsection (b), except that:
    - (i) the dates in that subsection do not apply;
    - (ii) each party must submit to the impasse neutral a final offer only on the effect on employees of the employer's exercise of its right; and
    - (iii) the impasse neutral must select the most reasonable of the parties' final offers no later than 10 days after the impasse neutral receives the final offers and, if appropriate, must provide retroactive relief.

MONTGOMERY COUNTY CODE  
Chapter 33

§33-81

- (F) If the impasse neutral has not issued a decision within 20 days after the impasse neutral receives the parties' final offers, the employer may implement its final offer until the impasse neutral issues a final decision. (1982 L.M.C., ch. 53, § 3; 2003 L.M.C., ch 22, § 1; 2004 L.M.C., ch. 15, § 1.)

**Sec. 33-82. Prohibited practices.**

- (a) The employer or its agents or representatives are prohibited from:
- (1) Interfering with, restraining or coercing employees in the exercise of any rights granted to them under the provisions of this article;
  - (2) Dominating or interfering with the formation or administration of any employee organization or contributing financial or other support to it, pursuant to contract or otherwise; provided that the employer and a certified representative may agree to and apply a membership dues deduction provision as provided herein and to reasonable use of county facilities for communicating with employees;
  - (3) Encouraging or discouraging membership in any employee organization by discrimination in regard to hiring, tenure, wages, hours or conditions of employment, provided that nothing in this article shall preclude an agreement from containing a provision for an agency shop;
  - (4) Discharging or discriminating against a public employee because he has filed charges, given testimony or otherwise lawfully aided in the administration of this article;
  - (5) Refusing to bargain collectively with a certified representative;
  - (6) Refusing to reduce to writing or refusing to sign a bargaining agreement which has been agreed to in all respects;
  - (7) Refusing to process or arbitrate a grievance if required under a grievance procedure contained in a collective bargaining agreement;
  - (8) Directly or indirectly opposing the appropriation of funds or the enactment of legislation by the county council to implement an agreement reached between the employer and the certified representative pursuant to this article;
  - (9) Engaging in a lockout of employees;
  - (10) delaying or refusing to participate in the impasse procedure in Section 33-81(c)(2) after the employer implements a final offer under Section 33-81(c)(2)(C).

This page is  
intentionally blank.

MONTGOMERY COUNTY CODE  
Chapter 33

§33-82

- (b) Employee organizations, and their agents, representatives and employees, are prohibited from:
- (1) Interfering with, restraining or coercing the employer or employees in the exercise of any rights granted under this article;
  - (2) Restraining, coercing or interfering with the employer in the selection of its representatives for the purposes of collective bargaining or the adjustment of grievances;

- (3) Refusing to bargain collectively with the employer if such employee organization is the certified representative.
  - (4) Refusing to reduce to writing or refusing to sign a bargaining agreement which has been agreed to in all respects;
  - (5) Hindering or preventing, by threats of violence, intimidation, force or coercion of any kind, the pursuit of any lawful work or employment by any person, public or private, or obstructing or otherwise unlawfully interfering with the entrance to or egress from any place of employment, or obstructing or unlawfully interfering with the free and uninterrupted use of public roads, streets, highways, railways, airports or other ways of travel or conveyance by any person, public or private;
  - (6) Hindering or preventing by threats, intimidation, force, coercion or sabotage, the obtaining, use or disposition of materials, supplies, equipment or services by the employer;
  - (7) Taking or retaining unauthorized possession of property of the employer or refusing to do work or use certain goods or materials as lawfully required by the employer;
  - (8) Forcing or requiring the employer to assign particular work to employees in a particular employee organization or classification rather than to employees in another employee organization or classification;
  - (9) Causing or attempting to cause the employer to pay or deliver or agree to pay or deliver any money or other thing of value, in the nature of an exaction, for services which are neither performed or to be performed.
- (c) A charge of prohibited practice may be filed by the employer, employee organization, or any individual employee. The charge or charges shall be filed with the permanent umpire, with copies to the party alleged to have committed a prohibited practice. All charges shall contain a statement of facts sufficient to enable the permanent umpire to investigate the charge. The permanent umpire may request withdrawal of and, if necessary, summarily dismiss charges if they are insufficiently supported in fact or in law to warrant a hearing. The permanent umpire shall have authority to maintain such independent investigation as the permanent umpire determines necessary and to develop rules and regulations therefor. If, upon investigation, the permanent umpire finds that a charge is sufficiently supported to raise an issue of fact or law, the permanent umpire shall hold a hearing on such charge upon notification to the parties. In any hearing, charging parties shall present evidence in support of the charges and the party or parties charged shall have the right to file an answer to the charges, to appear in person or otherwise and to present evidence in defense of the charges.

- (d) If the permanent umpire determines that the person charged has committed a prohibited practice, the permanent umpire shall make findings of fact and conclusions of law and shall be empowered to issue an order requiring the person charged to cease and desist from the prohibited practice and to take such affirmative action as will remedy the violation(s) of this article. Remedies of the permanent umpire may include, but shall not be limited to, reinstating employees with or without back pay, making employees whole for any loss relating to county employment suffered as a result of any prohibited practice, withdrawing or suspending the employee organization's authority to negotiate or continue membership dues deductions, or agency shop benefits. If the permanent umpire finds that the party or parties charged have not committed any prohibited practices, the permanent umpire shall make findings of fact and conclusions of law and issue an order dismissing the charges.
- (e) The permanent umpire shall not receive or entertain charges based upon an alleged prohibited practice occurring more than six (6) months prior to the filing of the charge. (1982 L.M.C., ch. 53, § 3; 2004 L.M.C., ch. 15, § 1.)

**Sec. 33-83. Expression of views.**

The expression of any views, argument or opinion, or the dissemination thereof, whether orally, in writing or otherwise, shall not constitute or be evidence of a prohibited practice under any of the provisions of this law nor be grounds for invalidating any election conducted under this law if such expression or dissemination contains no threat of reprisal or promise of benefit. (1982 L.M.C., ch. 53, § 3.)

**Sec. 33-84. Strikes and lockouts.**

- (a) No employee or employee organization shall either directly or indirectly cause, instigate, encourage, condone or engage in any strike, nor the employer in any lockout. No employee or employee organization shall obstruct, impede or restrict, either directly or indirectly, any attempt to terminate a strike.
- (b) The employer shall not pay, reimburse, make whole or otherwise compensate any employee for or during the period when said employee is directly or indirectly engaged in a strike, nor shall the employer thereafter compensate an employee who struck for wages or benefits lost during such strike.
- (c) If an employee or employee organization shall violate the provisions of this section, the employer, after adequate notice and a fair hearing before the permanent umpire who finds that the aforesaid violations have occurred and finds that any or all of the following actions are necessary in the public interest, may, subject to the law enforcement officer's bill of rights, article 27, section 727 et seq., Annotated Code of Maryland.\*

\*Editor's note—Md. Ann. Code art 27, § 727, et seq., appears in Md. Code Ann., Public Safety, Title 3, Subtitle 1 (2003).



- (1) Impose disciplinary action, including dismissal from employment, on employees engaged in such conduct;
  - (2) Terminate or suspend employee organization's dues deduction privilege, if any;
  - (3) Revoke the certification of and disqualify the employee organization from participation in representation elections for a period up to a maximum of two (2) years.
- (d) Nothing contained herein shall prohibit an employer from seeking any remedy available in a court of competent jurisdiction. (1982 L.M.C., ch. 53, § 3.)

**Sec. 33-85. Effect of prior enactments.**

Nothing contained in this article shall be construed to repeal any laws, executive orders, legislation, rules or regulations adopted by the county and any department or agency thereof not inconsistent with the provisions of this article. (1982 L.M.C., ch. 53, § 3.)

**ARTICLE VI. DISABILITY BENEFITS.\***

**\*Editor's note—** Article VI, §§ 33-86--33-100, was added by 1985 L.M.C., ch. 49, § 3. Section 4 of the law as amended by 1986 L.M.C., ch. 29, § 4 and § 1 of 1987 L.M.C., ch. 37, reads as follows:

*"Option for members of the county retirement system.* On or before June 1, 1987, every individual who is a member of the Montgomery County Retirement System under chapter 33 before May 15, 1986, has the option to transfer from the disability retirement program under section 33-43 of chapter 33 to the disability benefits program under article VI of chapter 33. This option is not available to retired members of the Montgomery County Retirement System.

The chief administrative officer of the county must hold seminars and provide clear written information to inform all those individuals of:

- (1) The provisions of the disability benefits program;
- (2) The changes to the disability retirement program; and
- (3) The option of changing programs that is available to them."

**Sec. 33-86. Applicability.**

The provisions of this article only apply to individuals who:

- (1) Are members of the retirement system under this chapter on or after May 15, 1986, and submitted an application for disability benefits on or after May 15, 1986, but before July 1, 1989, or is an elected official on July 1, 1989, and submitted an application for disability benefits on or after May 16, 1986, but before December 3, 1990;

- (1) Assure the impartiality of the hearing;
  - (2) Notify the employee of the right to counsel at the hearing; and
  - (3) Establish a record of the hearing that will be the basis for subsequent reviews.
- (b) The county or the employee may appeal on the record the final decision of the administrator to the merit system protection board within thirty (30) days from the date that the employee receives written notice of the decision.
- (c) The county or the employee may appeal the final decision of the merit system protection board to a court of competent jurisdiction as provided in the Maryland Rules of Procedure, chapter 1100, subtitle B.\* (1985 L.M.C., ch. 49, § 3.)

**\*Editor's note**—In 1993, former Chapter 1100, subtitle B, of the Maryland Rules (often referred to as the "B Rules"), became Title 7, Chapter 200, of the Maryland Rules.

**Sec. 33-100. Regulations.**

Before May 15, 1986, the county executive must adopt regulations under method (1) of section 2A-15 of this Code to implement this article. (1985 L.M.C., ch. 49, § 3; 1986 L.M.C., ch. 29, § 1; 1986 L.M.C., ch. 56, § 2.)

**ARTICLE VII. COUNTY COLLECTIVE BARGAINING.**

**Sec. 33-101. Declaration of policy.**

It is the public policy of Montgomery County to promote a harmonious, peaceful, and cooperative relationship between the county government and its employees and to protect the public by assuring, at all times, the responsive, orderly, and efficient operation of county government and services. Since unresolved disputes in public service are harmful to the public and to employees, adequate means should be available for preventing disputes and for resolving them when they occur. To that end, it is in the public interest that employees have the opportunity to bargain collectively over wages, hours, and other terms and conditions of employment, as authorized by Charter section 511, through a representative of their choice, or to refrain from collective bargaining. It is also in the public interest that the county government and a representative of county employees bargain collectively in good faith without interference with the orderly process of government and that they implement any agreements reached through collective bargaining.

The county council also recognizes that employee organizations and the county government each possess substantial means for initiating actions on wages, hours, and working conditions of employees. Therefore, in order to preserve an appropriate balance between labor and management in the public service, the county council states that once the employees voluntarily select a representative, collective bargaining shall be used in place of, and not in addition to, existing means for initiating governmental

action on subjects that are defined as appropriate for like collective bargaining in this article. (1986 L.M.C., ch. 70, § 3.)

**Editor's note**—The above section is cited in Dashiell v. Montgomery County, 925 F.2d 750 (4th Cir. 1991).

See County Attorney Opinion dated 4/21/00 explaining that conducting union business on County property does not violate the ethics law, because union business is public, not personal.

### Sec. 33-102. Definitions.

The following terms have the meaning indicated when used in this article:

- (1) *Agency shop* means a provision in a collective bargaining agreement requiring, as a condition of continued employment, that bargaining unit employees pay a service fee not greater than the monthly membership dues uniformly and regularly required by the employee organization of all of its members. An agency shop agreement shall not require an employee to pay initiation fees, assessments, fines, or any other like collections or their equivalent as a condition of continued employment. A collective bargaining agreement shall not require payment of a service fee by any employee who opposes joining or financially supporting an employee organization on religious grounds. However, the collective bargaining agreement may require that employee to pay an amount equal to the service fee to a nonreligious, nonunion charity, or to any other charitable organization, agreed to by the employee and the certified representative, with provision for dispute resolution if there is not agreement, and to give to the employer and the certified representative written proof of this payment. The certified representative shall adhere at all times to all federal constitutional requirements in its administration of any agency shop system maintained by it.
- (2) *Certified representative* means an employee organization chosen to represent employees as their exclusive bargaining agent in one (1) or both units as defined in Section 33-105 in accordance with the procedures of this Article.
- (3) *Collective bargaining* means meeting at reasonable times and places and negotiating in good faith on appropriate subjects as defined under this Article. This Article shall not be interpreted to compel either party to agree to a proposal or make a concession.
- (4) *Employee* means any person who works for the County government, except:
  - (A) a confidential aide to an elected official;
  - (B) a person holding a position designated by law as a non-merit position;
  - (C) a head of a principal department, office, or agency;
  - (D) a deputy or assistant to a head of a principal department, office, or agency;

- (E) an employee who provides direct staff or administrative support to the head of a principal department, office, or agency, or to a deputy or assistant within the immediate office of a head of a principal department, office, or agency;
- (F) an employee who reports directly to, or whose immediate supervisor is:
  - (i) the County Executive;
  - (ii) the Chief Administrative Officer; or
  - (iii) a principal aide of the County Executive or Chief Administrative Officer;
- (G) an employee who works for:
  - (i) the Office of the County Executive;
  - (ii) the Office of the Chief Administrative Officer;
  - (iii) the County Council;
  - (iv) the Office of the County Attorney;
  - (v) the Office of Management and Budget;
  - (vi) the Office of Intergovernmental Relations;
  - (vii) the Office of Human Resources; or
  - (viii) the Merit System Protection Board;
- (H) an employee in a temporary, seasonal, or substitute position, unless the position is in a job class in which the incumbents are predominantly career merit system employees;
- (I) a recently-hired employee who has not completed the probationary period;
- (J) an employee in the police bargaining unit;
- (K) an employee in the firefighter/rescuer bargaining unit;
- (L) a uniformed officer in the Department of Correction & Rehabilitation at the rank of Lieutenant or higher;
- (M) subject to any limitations in State law, a uniformed officer in the Office of the Sheriff at the rank of sergeant or higher;
- (N) an employee who is a member of the State merit system;

- (O) a supervisor, other than a Sergeant in the Department of Correction and Rehabilitation;
  - (P) an employee in a position classified at grade 27 or above unless the employee's position is reclassified or reallocated on or after July 1, 2002, to a non-supervisory position at grade 27 or above; or
  - (Q) an employee in a position classified in the Management Leadership Service.
- (5) *Employee organization* means any organization that admits employees to membership and that has as a primary purpose the representation of employees in collective bargaining.
  - (6) *Employer* means the County Executive and his or her designees.
  - (7) *Lockout* means any action that the employer takes to interrupt or prevent the continuity of work properly and usually performed by the employees for the purpose and with the intent of either coercing the employees into relinquishing rights guaranteed by this Article or of bringing economic pressure on employees for the purpose of securing the agreement of their certified representative to certain collective bargaining terms.
  - (8) *Mediation* means an effort by the mediator/fact-finder chosen under this Article to assist confidentially in resolving, through interpretation, suggestion, and advice, a dispute arising out of collective bargaining between the employer and the certified representative.
  - (9) *Strike* means a concerted failure to report for duty, absence, stoppage of work, or abstinence in whole or in part from the full and faithful performance of the duties of employment with the employer, or deviation from normal or proper work duties or activities, where any of the preceding are done in a concerted manner for the purpose of inducing, influencing, or coercing the employer in the determination, implementation, interpretation, or administration of terms or conditions of employment or of the rights, privileges, or obligations of employment or of the status, recognition, or authority of the employee or an employee organization.
  - (10) *Supervisor* means an employee who has the authority to:
    - (A) hire, assign, transfer, lay off, recall, promote, evaluate, reward, discipline, suspend, or discharge another employee, or effectively recommend any of these actions;
    - (B) direct the activity of 3 or more employees; or
    - (C) adjust or recommend adjustment of any grievance.

- (11) *Unit* means either of the units defined in Section 33-105. (1986 L.M.C., ch. 70, § 3; 1994 L.M.C., ch. 16, § 1; 1996 L.M.C., ch. 21, § 1; 2002 L.M.C., ch. 8, § 1; 2005 L.M.C., ch. 8, § 1.)

**Sec. 33-103. Labor relations administrator.**

- (a) A Labor Relations Administrator must be appointed to effectively administer this Article as it governs selection, certification and decertification procedures, prohibited practices, and the choice of a mediator/fact-finder. The Administrator must:
- (1) Periodically adopt, amend, and rescind, under method (1) of section 2A-15 of this Code, regulations and procedures for the implementation and administration of the duties of the labor relations administrator under this article.
  - (2) Request from the employer or an employee organization, and the employer or such organization may at its discretion provide, any relevant assistance, service, and data that will enable her properly to carry out her duties under this article.
  - (3) Hold hearings and make inquiries, administer oaths and affirmations, examine witnesses and documents, take testimony and receive evidence, and compel by issuance of subpoenas the attendance of witnesses and the production of relevant documents.
  - (4) Hold and conduct elections for certification or decertification pursuant to the provisions of this article and issue the certification or decertification.
  - (5) Investigate and attempt to resolve or settle, as provided in this article, charges of engaging in prohibited practices. However, if the employer and a certified representative have negotiated a valid grievance procedure, the labor relations administrator shall defer to that procedure for the resolution of disputes properly submissible to the procedure absent a showing that the deferral results in the application of principles repugnant to this article. Furthermore, the labor relations administrator shall defer to state procedures in those matters which are governed by the Law-Enforcement Officers' Bill of Rights, article 27, sections 727--734D, Annotated Code of Maryland.\*
- \*Editor's note—Md. Ann. Code art 27, § 727, et seq. appears in Md. Code Ann., Public Safety, Title 3, Subtitle 1 (2003).
- (6) Determine unresolved issues of a person's inclusion in or exclusion from the units.
  - (7) Obtain any necessary support services and make necessary expenditures in the performance of duties to the extent provided for these purposes in the annual budget of Montgomery County.

- (8) Determine any issue regarding the negotiability of any collective bargaining proposal.
- (9) Exercise any other powers and perform any other duties and functions specified in this Article.
- (b)
  - (1) The Administrator must be a person with experience as a neutral in the field of labor relations, and must not be a person who, because of vocation, employment, or affiliation, can be categorized as a representative of the interest of the employer or any employee organization.
  - (2) The County Executive must appoint, subject to confirmation by the County Council, the Administrator for a term of 5 years from a list of 5 nominees agreed upon by any certified representative(s) and the Chief Administrative Officer. The list may include the incumbent Administrator. If the Council does not confirm the appointment, the new appointment must be from a new agreed list of 5 nominees. If no certified representative has been selected, the Administrator must be appointed for a 4-year term by the Executive, subject to Council confirmation.
- (c) If the Administrator dies, resigns, becomes disabled, or otherwise becomes unable or ineligible to continue to serve, the Executive must appoint a new Administrator, subject to Council confirmation, to serve the remainder of the previous Administrator's term. The Administrator appointed under this subsection may be reappointed as provided in subsection (b).
- (d) The Administrator must be paid a daily fee as specified in a contract with the County, and must be reimbursed for necessary expenses incurred in performing the duties of Administrator. (1986 L.M.C., ch. 70, § 3; 2000 L.M.C., ch. 2, § 1; 2007 L.M.C., ch. 1, § 1.)

**Sec. 33-104. Employee rights.**

- (a) Employees have the right to:
  - (1) Form, join, support, contribute to, or participate in, or to refrain from forming, joining, supporting, contributing to, or participating in, any employee organization or its lawful activities; and
  - (2) Be represented fairly by their certified representative, if any.
- (b) The employer has the duty to extend to the certified representative the exclusive right to represent the employees for the purposes of collective bargaining, including the orderly processing and settlement of grievances as agreed by the parties in accordance with this article.

- (c) A certified representative serves as the exclusive bargaining agent for all employees in the unit for which it is certified and has the duty to represent fairly and without discrimination all employees in the unit without regard to whether the employees are members of the employee organization, pay dues or other contributions to it, or participate in its affairs. However, it is not a violation of this duty for a certified representative to seek enforcement of an agency shop provision in a valid collective bargaining agreement.
- (d) The right of a certified representative to receive voluntary dues or service fee deductions or agency shop provisions shall be determined through negotiations, unless the authority to negotiate these provisions has been suspended under this article. A collective bargaining agreement may not include a provision requiring membership in, participation in the affairs of, or contributions to an employee organization other than an agency shop provision. (1986 L.M.C., ch. 70, § 3.)

**Sec. 33-105. Units for collective bargaining.**

- (a) There are 2 units for collective bargaining and for purposes of certification and decertification. Members of these units are all County government employees, as defined in Section 33-102(4), and those employees who are limited-scope members of a bargaining unit under subsection (c)(2). The employees are divided into 2 units:
  - (1) *Service, labor, and trades (SLT) unit:* This unit is composed of all eligible classes that are associated with service/maintenance and skilled crafts. This means job classes in which workers perform duties that result in or contribute to the comfort and convenience of the general public or that contribute to the upkeep and care of buildings, facilities, or grounds of public property. Workers in this group may operate specialized machinery or heavy equipment. These job classes may also require special manual skill and a thorough and comprehensive knowledge of the processes involved in the work that is acquired through on-the-job training and experience or through apprenticeship or other formal training programs.
  - (2) *Office, professional, and technical (OPT) unit:* This unit is composed of all eligible classes associated with office, professional, paraprofessional, and technical functions.
    - (A) *Office:* Job classes in which workers are responsible for internal and external communication, recording and retrieval of data and/or information, and other paperwork required in an office.
    - (B) *Professional:* Job classes that require special and theoretical knowledge that is usually acquired through college training or through work experience and other training that provides comparable knowledge.



MONTGOMERY COUNTY CODE  
Chapter 33

- (C) *Paraprofessional*: Job classes in which workers perform, in a supportive role, some of the duties of a professional or technician. These duties usually require less formal training and/or experience than is normally required for professional or technical status.
  - (D) *Technical*: Job classes that require a combination of basic scientific or technical knowledge and manual skill that can be obtained through specialized post-secondary school education or through equivalent on-the-job training.
- (b) Specific job classes included in these units of representation, and not otherwise excluded under Section 33-102(4), shall be based on the designations made by the Chief Administrative Officer under the prior meet and confer process if the job class is not specified in this Article. In the event a new classification is created by the County, or an existing classification's duties and responsibilities are substantially changed, the County Personnel Director must place the classification in one of the units or state that the classification falls within one of the exceptions to the definition of employee under this Article within sixty (60) days of the creation or substantial alteration of the class and must publish the decision in the Montgomery County Register. Any individual or certified representative disagreeing with the decision of the Personnel Director may, within ten (10) days of publication, file objections to the decision with the labor relations administrator, with notice to the Personnel Director. The Labor Relations Administrator shall promptly decide the question on the basis of the duties and responsibilities of the job classification, the unit definition, and the community of interests between and among employees in the job classification and collective bargaining unit.
- (c) *Temporary, seasonal, and substitute employees.*
- (1) A temporary, seasonal, or substitute employee in an occupational class in which the incumbents are predominantly career merit system employees becomes a member of the applicable bargaining unit when the employee has worked 6 months in a position in that occupational class. However, the employee may be terminated for any cause or without cause and without any right of grievance until the employee has completed 1040 hours of service in that position in any 12-month period.
  - (2) A temporary, seasonal, or substitute employee who is excluded from the definition of "employee" under Section 33-102(4)(H) because the employee is not in an occupational class in which the incumbents are predominantly career merit system employees becomes a limited-scope member of the applicable bargaining unit immediately after the employee begins employment if:
    - (A) the employee works at least 25 hours per pay period; and

- (B) the employee organization which represents that bargaining unit has adopted a reduced scale of dues and service fees for employees in the limited-scope membership group that is generally proportional to the organization's representational responsibilities for employees in that group relative to the organization's representational responsibilities for other bargaining unit members, as determined by the employee organization.

Membership in a bargaining unit on a limited-scope basis must not carry any right to continued employment or access to any grievance procedure or other benefit that is extended to other bargaining unit members. (1986 L.M.C., ch. 70, § 3; 1988 L.M.C., ch. 19, § 1; 1996 L.M.C., ch. 21, § 1; 2002 L.M.C., ch. 8, § 1.)

**Editor's note**—2002 L.M.C., ch. 8, § 2, states: The certified representative and the employer must bargain under Sec. 33-107 with respect to temporary, seasonal, and substitute employees who are members of a bargaining unit, including limited-scope employees, immediately after this Act becomes law [May 20, 2002]. The procedures for impasse resolution under Section 33-108 apply to this bargaining process, but the specific action deadlines in that section do not apply. An initial agreement between the certified representative and the employer with respect to temporary, seasonal, and substitute employees must expire on the same date as the existing agreements for the SLT and OPT bargaining units.

**Sec. 33-106. Selection, certification, and decertification procedures.**

- (a) The certification or decertification of an employee organization as the representative of a unit for collective bargaining must comply with the following procedures:
- (1) Any employee organization seeking certification as representative of a unit shall file a petition with the labor relations administrator stating its name, address, and its desire to be certified. The employee organization shall also send a copy of the petition, including a copy of the signatures of the supporting employees on the petition, to the employer. The petition shall contain the uncoerced signatures of thirty (30) percent of the employees within the unit signifying their desire to be represented by the employee organization for purposes of collective bargaining.
  - (2) If an employee organization has been certified, an employee within the unit may file a petition with the labor relations administrator for decertification of this certified representative. The employee shall also send a copy of the petition to the employer and the certified representative, not including the names of the supporting employees. The petition shall contain the uncoerced signatures of thirty (30) percent of the employees within the unit alleging that the employee organization presently certified is no longer the choice of the majority of the employees in the unit.

- (3) Petitions may be filed within ninety (90) days after any new bargaining unit is established. Thereafter, if a lawful collective bargaining agreement is not in effect, petitions may be filed between September 1 and September 30 of any year, but not sooner than twenty-two (22) months after an election held under this section.
  - (4) If a lawful collective bargaining agreement is in effect, a petition filed under this section shall not be entertained unless it is filed during September of the final year of the agreement.
  - (5) If a different employee organization is certified as the result of an election carried out under subsection (b)(8), that organization must be treated in all respects as a successor in interest and party to any collective bargaining agreement that the previous employee organization was a party to.
- (b) If the labor relations administrator determines that a petition is properly supported and timely filed, she shall cause an election of all eligible employees to be held within a reasonable time, but no later than October 20 of any year, to determine if and by whom the employees wish to be represented, as follows:
- (1) All elections shall be conducted under the supervision of the labor relations administrator and shall be conducted by secret ballot at the time and place that she directs. The labor relations administrator may select and retain the services of an agency of the State of Maryland responsible for conducting labor elections, or a similarly neutral body, to assist in conducting the election.
  - (2) The election ballots shall contain, as choices to be made by the voter, the names of the petitioning or certified employee organization, the name or names of any other employee organization showing written proof at least ten (10) days before the election of at least ten (10) percent representation of the employees within the unit in the same manner as described in paragraph (a)(1) of this section, and a choice that the employee does not desire to be represented by any of the named employee organizations.
  - (3) The employer and each party to the election may be represented by observers selected in accordance with limitations and conditions that the labor relations administrator may prescribe.
  - (4) Observers may challenge for good cause the eligibility of any person to vote in the election. Challenged ballots shall be impounded pending either agreement of the parties as to the validity of the challenge or the labor relations administrator's decision as to the validity of the challenge, unless the number of challenges is not determinative, in which case the challenged ballots shall be destroyed.

- (5) After the polls have been closed, the valid ballots cast shall be counted by the labor relations administrator in the presence of the observers.
  - (6) The labor relations administrator shall immediately prepare and serve upon the employer and each of the parties a report certifying the results of the election. If an employee organization receives the votes of a majority of the employees who voted, the labor relations administrator shall certify the employee organization so elected as the exclusive agent.
  - (7) If no employee organization receives the votes of a majority of the employees who voted, the labor relations administrator shall not certify a representative. Unless a majority of the employees who vote choose "no representative," a runoff election shall be conducted. The runoff election shall contain the two (2) choices that received the largest and second largest number of votes in the original election.
  - (8) If a properly supported and timely filed petition to decertify an existing certified employee organization, and a properly supported and timely filed petition to certify another employee organization, are filed during the same time period under subsection (a)(3) or (a)(4), one election must be held to determine which organization, if any, the employees in the unit desire to represent them. The election ballot must contain, as choices to be made by the voter, the names of the petitioning and certified employee organizations, and a choice that the employee does not desire to be represented by any of the named employee organizations. All other applicable requirements and procedures for the election must be followed.
- (c) The labor relations administrator's certification of results is final unless, within seven (7) days after service of the report and the certification, any party serves on all other parties and files with the labor relations administrator objections to the election. Objections shall be verified and shall contain a concise statement of facts constituting the grounds for the objections. The labor relations administrator shall investigate the objections and, if substantial factual issues exist, shall hold a hearing. Otherwise, she may determine the matter without a hearing. The labor relations administrator may invite, either by rule or by invitation, written or oral argument to assist her in determining the merits of the objections. If the labor relations administrator finds that the election was conducted in substantial conformity with this article, she shall confirm the certification initially issued. If the labor relations administrator finds that the election was not held in substantial conformity with this article, then she shall hold another election under this section.
- (d) The cost of conducting an election shall be paid by the county. (1986 L.M.C., ch. 70, § 3; 1988 L.M.C., ch. 19, § 2; 2000 L.M.C., ch. 2, § 1; 2003 L.M.C., ch. 22, § 1.)

**Sec. 33-107. Collective bargaining.**

- (a) *Duty to bargain; matters subject to bargaining.* Upon certification of an employee organization, the employer and the certified representative have the duty to bargain collectively with respect to the following subjects for employees other than limited-scope members of the bargaining unit under Section 33-105(c)(2):
- (1) Salary and wages, including the percentage of the increase in the salary and wages budget that will be devoted to merit increments and cash awards, provided that salaries and wages shall be uniform for all employees in the same classification.
  - (2) Pension and other retirement benefits for active employees only, but the parties must not bargain over the participation by any employee who is a member of the bargaining unit under Section 33-105(c)(1) in either the Integrated Retirement Plan or the Retirement Savings Plan.
  - (3) Employee benefits such as insurance, leave, holidays, and vacations.
  - (4) Hours and working conditions.
  - (5) Provisions for the orderly processing and settlement of grievances concerning the interpretation and implementation of a collective bargaining agreement, which may include:
    - (A) Binding third party arbitration for employees other than members of the bargaining unit under Section 33-105(c)(1), but the arbitrator must not amend, add to, or subtract from the provisions of the collective bargaining agreement; and
    - (B) Provisions for exclusivity of forum.
  - (6) Matters affecting the health and safety of employees.
  - (7) Amelioration of the effect on employees when the exercise of employer rights listed in subsection (b) causes a loss of existing jobs in the unit.

The duty to bargain under this subsection, and any agreement reached as a result of bargaining, must not limit the employer's authority to require a newly-hired employee to remain in probationary status, during which the employee may be terminated for any cause or without cause and without any right of grievance, for a period that does not exceed 6 months. Unless a specific probationary period is required by law, the parties may agree on any probationary period that is not less than 6 months.

- (b) *Duty to bargain for limited-scope employees.* The employer and the certified representative have the duty to bargain collectively on only the following subjects with respect to employees who are limited-scope members of the bargaining unit under Section 33-105(c)(2):
- (1) wage scales and general wage adjustments; and
  - (2) dues or service fee deductions.
- (c) *Employer rights.* This article and any agreement made under it shall not impair the right and responsibility of the employer to perform the following:
- (1) Determine the overall budget and mission of the employer and any agency of county government.
  - (2) Maintain and improve the efficiency and effectiveness of operations.
  - (3) Determine the services to be rendered and the operations to be performed.
  - (4) Determine the overall organizational structure, methods, processes, means, job classifications, and personnel by which operations are to be conducted and the location of facilities.
  - (5) Direct and supervise employees.
  - (6) Hire, select, and establish the standards governing promotion of employees, and classify positions.
  - (7) Relieve employees from duties because of lack of work or funds, or under conditions when the employer determines continued work would be inefficient or nonproductive.
  - (8) Take actions to carry out the mission of government in situations of emergency.
  - (9) Transfer, assign, and schedule employees.
  - (10) Determine the size, grades, and composition of the work force.
  - (11) Set the standards of productivity and technology.
  - (12) Establish employee performance standards and evaluate employees, except that evaluation procedures shall be a subject for bargaining.

MONTGOMERY COUNTY CODE  
Chapter 33

- (13) Make and implement systems for awarding outstanding service increments, extraordinary performance awards, and other merit awards.
  - (14) Introduce new or improved technology, research, development, and services.
  - (15) Control and regulate the use of machinery, equipment, and other property and facilities of the employer, subject to subsection (a)(6) of this section.
  - (16) Maintain internal security standards.
  - (17) Create, alter, combine, contract out, or abolish any job classification, department, operation, unit, or other division or service, provided that no contracting of work which will displace employees may be undertaken by the employer unless ninety (90) days prior to signing the contract, or such other date of notice as agreed by parties, written notice has been given to the certified representative.
  - (18) Suspend, discharge, or otherwise discipline employees for cause, except that, subject to Charter section 404, any such action may be subject to the grievance procedure set forth in the collective bargaining agreement.
  - (19) Issue and enforce rules, policies, and regulations necessary to carry out these and all other managerial functions which are not inconsistent with this article, federal or state law, or the terms of the collective bargaining agreement.
- (d) *Exemption.* This article shall not be construed to limit the discretion of the employer voluntarily to discuss with the representatives of its employees any matter concerning the employer's exercise of any of the rights set forth in this section. However, these matters shall not be subject to bargaining.
- (e) *Agreement.* The public employer rights set forth in this section are to be considered a part of every agreement reached between the employer and an employee organization. (1986 L.M.C., ch. 70, § 3; 2002 L.M.C., ch. 8, § 1.)

**Editor's note**—Section 33-107 is quoted in Haub v. Montgomery County, 353 Md. 448, 727 A.2d 369 (1999).

See County Attorney Opinion dated 10/9/91 supplementing the legal analysis given 9/23/91 regarding privatizing liquor control operations. See County Attorney Opinion dated 9/23/91 explaining that State law does not prohibit the Department of Liquor Control from entering into contracts with private entities to operate the liquor stores. See supplemental memo dated 10/9/91.

2002 L.M.C., ch. 8, § 2, states: The certified representative and the employer must bargain under Sec. 33-107 with respect to temporary, seasonal, and substitute employees who are members of a bargaining unit, including limited-scope employees, immediately after this Act becomes law [May 20, 2002]. The procedures for impasse resolution under Section 33-108 apply to this bargaining process, but the specific action deadlines in that section do

not apply. An initial agreement between the certified representative and the employer with respect to temporary, seasonal, and substitute employees must expire on the same date as the existing agreements for the SLT and OPT bargaining units.

**Sec. 33-108. Bargaining, impasse, and legislative procedures.**

- (a) Collective bargaining must begin no later than November 1 before the beginning of a fiscal year for which there is no agreement between the employer and the certified representative, and must be finished on or before February 1.
- (b) Any provision for automatic renewal or extension of a collective bargaining agreement is void. An agreement is not valid if it extends for less than one (1) year or for more than three (3) years. All agreements take effect July 1 and end June 30.
- (c) A collective bargaining agreement takes effect only after ratification by the employer and the certified representative. The certified representative may adopt its own ratification procedures.
- (d) Before September 10 of any year in which the employer and the certified representative bargain collectively, the Labor Relations Administrator must appoint a mediator/arbitrator, who may be a person recommended by both parties. The mediator/arbitrator must be available from January 2 to June 30. Fees and expenses of the mediator/arbitrator must be shared equally by the employer and the certified representative.
- (e)
  - (1) During the course of collective bargaining, either party may declare an impasse and request the services of the mediator/arbitrator, or the parties may jointly request those services before an impasse is declared. If the parties do not reach an agreement by February 1, an impasse exists. Any issue regarding the negotiability of any bargaining proposal must be referred to the Labor Relations Administrator for an expedited determination.
  - (2) Any dispute, except a dispute involving the negotiability of a bargaining proposal, must be submitted to the mediator/arbitrator whenever an impasse has been reached, or as provided in subsection (e)(1). The mediator/arbitrator must engage in mediation by bringing the parties together voluntarily under such favorable circumstances as will encourage settlement of the dispute.
  - (3) If the mediator/arbitrator finds, in the mediator/arbitrator's sole discretion, that the parties are at a bona fide impasse, or as of February 1 when an impasse is automatically reached, whichever occurs earlier, the dispute must be submitted to binding arbitration.
- (f) (1) If binding arbitration is invoked, the mediator/arbitrator must require each party to submit a final offer, which must consist either of a complete draft of a proposed collective bargaining agreement or a complete package proposal, as the



MONTGOMERY COUNTY CODE  
Chapter 33

mediator/arbitrator directs. If only complete package proposals are required, the mediator/arbitrator must require the parties to submit jointly a memorandum of all items previously agreed on.

- (2) The mediator/arbitrator may require the parties to submit oral or written evidence and arguments in support of their proposals. The mediator/arbitrator may hold a hearing for this purpose at a time, date, and place selected by the mediator/arbitrator. This hearing must not be open to the public.
- (3) On or before February 15, the mediator/arbitrator must select, as a whole, the more reasonable of the final offers submitted by the parties. The mediator/arbitrator must not compromise or alter a final offer. The mediator/arbitrator must not consider or receive any argument or evidence related to the history of collective bargaining in the immediate dispute, including any previous settlement offer not contained in the final offers. However, the mediator/arbitrator must consider all previously agreed-on items, integrated with the disputed items, to decide which offer is the most reasonable.
- (4) In making a determination under this subsection, the mediator/arbitrator may consider only the following factors:
  - (A) Past collective bargaining agreements between the parties, including the past bargaining history that led to the agreements, or the pre-collective bargaining history of employee wages, hours, benefits, and working conditions.
  - (B) Comparison of wages, hours, benefits, and conditions of employment of similar employees of other public employers in the Washington Metropolitan Area and in Maryland.
  - (C) Comparison of wages, hours, benefits, and conditions of employment of other Montgomery County personnel.
  - (D) Wages, benefits, hours, and other working conditions of similar employees of private employers in Montgomery County.
  - (E) The interest and welfare of the public.
  - (F) The ability of the employer to finance economic adjustments, and the effect of the adjustments on the normal standard of public services provided by the employer.
- (5) The offer selected by the mediator/arbitrator, integrated with all previously agreed on items, is the final agreement between the employer and the certified

representative, need not be ratified by any party, and has the effect of a contract ratified by the parties under subsection (c). The parties must execute the agreement, and any provision which requires action in the County budget must be included in the budget which the employer submits to the County Council.

- (g) In each proposed annual operating budget, the County Executive must describe any collective bargaining agreement or amendment to an agreement that is scheduled to take effect in the next fiscal year and estimate the cost of implementing that agreement. The employer must submit to the Council by April 1, unless extenuating circumstances require a later date, any term or condition of the collective bargaining agreement that requires an appropriation of funds, or the enactment or adoption of any County law or regulation, or which has or may have a present or future fiscal impact. If a later submission is necessary, the employer must specify the submission date and the reasons for delay to the Council President by April 1. The employer must expressly identify to the Council and the certified representative any term or condition that requires Council review. Each submission to the Council must include:

- (1) all proposed legislation and regulations necessary to implement the collective bargaining agreement;
- (2) all changes from the previous collective bargaining agreement, indicated by brackets and underlines or a similar notation system; and
- (3) all side letters or other extraneous documents that are binding on the parties.

The employer must make a good faith effort to have the Council approve all terms of the final agreement that require Council review.

- (h) The Council may hold a public hearing to enable the parties and the public to testify on the agreement.
- (i) The Council may accept or reject all or part of any term or condition that requires Council review under subsection (g). On or before May 1, the Council must indicate by resolution its intention to appropriate funds for or otherwise implement the items that require Council review or its intention not to do so, and must state its reasons for any intent to reject any such item. The Council, by majority vote taken on or before May 1, may defer the May 1 deadline to any date not later than May 15.
- (j) If the Council indicates its intention to reject any item that requires Council review, the Council must designate a representative to meet with the parties and present the Council's views in the parties' further negotiation on items that the Council has indicated its intention to reject. This representative must also participate fully in stating the Council's position in any ensuing impasse procedure. The parties must meet as promptly as possible and attempt to negotiate an agreement acceptable to the Council. Either party

may at this time initiate impasse procedures under this Section. The parties must submit the results of the negotiation, whether a complete or a partial agreement, to the Council on or before May 10. If the Council has deferred the May 1 deadline, that action automatically postpones the May 10 deadline by the same number of days. The Council then must consider the agreement as renegotiated by the parties and indicate by resolution its intention to appropriate funds for or otherwise implement the agreement, or its intention not to do so.

- (k) Any agreement must provide for automatic reduction or elimination of wage or benefits adjustments if:
  - (1) The Council does not take action necessary to implement the agreement or a part of it; or
  - (2) Sufficient funds are not appropriated for any fiscal year when the agreement is in effect.
- (l) The Council must take any action required by the public interest with respect to any matter still in dispute between the parties. However, any action taken by the Council is not part of the agreement between the parties unless the parties specifically incorporate it in the agreement.
- (m) *Later years.* The process and timetable in subsections (i) and (j) apply to Council review of wage or benefits adjustments after the first year of any multi-year agreement.
- (n) *Out-of-cycle amendments.* The process in subsections (i) and (j) applies to Council review of any amendment to a collective bargaining agreement that the Council receives after May 15 of any year, but the deadlines in those subsections do not apply. The Council President must set action deadlines which result, to the extent feasible, in a similar timetable relative to the date the Council received the amendment. (1986 L.M.C., ch. 70, § 3.; 1993 L.M.C., ch. 12, § 1; 2000 L.M.C., ch. 2; § 1; 2003 L.M.C., ch. 22, § 1.)

**Editor's note**—2002 L.M.C., ch. 8, § 2, states: The certified representative and the employer must bargain under Sec. 33-107 with respect to temporary, seasonal, and substitute employees who are members of a bargaining unit, including limited-scope employees, immediately after this Act becomes law [May 20, 2002]. The procedures for impasse resolution under Section 33-108 apply to this bargaining process, but the specific action deadlines in that section do not apply. An initial agreement between the certified representative and the employer with respect to temporary, seasonal, and substitute employees must expire on the same date as the existing agreements for the SLT and OPT bargaining units.

#### **Sec. 33-109. Prohibited practices.**

- (a) The employer or its agents or representatives are prohibited from any of the following:

- (1) Interfering with, restraining, or coercing employees in the exercise of any rights granted to them under this article.
  - (2) Dominating or interfering with the formation or administration of any employee organization or contributing financial or other support to it, under an agreement or otherwise. However, the employer and a certified representative may agree to and apply an agency shop provision under this article and a voluntary dues or service fee deduction provision, and may agree to reasonable use of county facilities for communicating with employees.
  - (3) Encouraging or discouraging membership in any employee organization by discriminating in hiring, tenure, wages, hours, or conditions of employment. However, nothing in this article precludes an agreement from containing a provision for an agency shop.
  - (4) Discharging or discriminating against a public employee because she or he files charges, gives testimony, or otherwise lawfully aids in the administration of this article.
  - (5) Refusing to bargain collectively with the certified representative.
  - (6) Refusing to reduce to writing or refusing to sign a bargaining agreement that has been agreed to in all respects.
  - (7) Refusing to process or arbitrate a grievance if required under a grievance procedure contained in a collective bargaining agreement.
  - (8) Directly or indirectly opposing the appropriation of funds or the enactment of legislation by the county council to implement an agreement reached between the employer and the certified representative under this article.
  - (9) Engaging in a lockout of employees.
- (b) Employee organizations, their agents, representatives, and person who work for them are prohibited from any of the following:
- (1) Interfering with, restraining, or coercing the employer or employees in the exercise of any rights granted under this article.
  - (2) Restraining, coercing, or interfering with the employer in the selection of its representative for the purposes of collective bargaining or the adjustment of grievances.
  - (3) Refusing to bargain collectively with the employer if the employee organization is the certified representative.

- (4) Refusing to reduce to writing or refusing to sign a bargaining agreement which has been agreed to in all respects.
  - (5) Hindering or preventing, by threats of violence, intimidation, force, or coercion of any kind, the pursuit of any lawful work or employment by any person, public or private, or obstructing or otherwise unlawfully interfering with the entrance to or exit from any place of employment, or obstructing or unlawfully interfering with the free and uninterrupted use of public roads, streets, highways, railways, airports, or other ways of travel or conveyance by any person, public or private.
  - (6) Hindering or preventing by threats, intimidation, force, coercion, or sabotage, the obtaining, use, or disposition of materials, supplies, equipment, or services by the employer.
  - (7) Taking or retaining unauthorized possession of property of the employer, or refusing to do work or use certain goods or materials as lawfully required by the employer.
  - (8) Causing or attempting to cause the employer to pay or deliver or agree to pay or deliver any money or other thing of value, in the nature of an exaction, for services which are neither performed nor to be performed.
- (c) A charge of prohibited practice may be filed by the employer, an employee organization, or any individual employee. The charge or charges shall be filed with the labor relations administrator, and copies shall be sent to the party alleged to have committed a prohibited practice. All charges shall contain a statement of facts sufficient to enable the labor relations administrator to investigate the charge. The labor relations administrator may request withdrawal of and, if necessary, summarily dismiss charges if they are insufficiently supported in fact or in law to warrant a hearing. The labor relations administrator has the authority to maintain whatever independent investigation she determines is necessary and to develop regulations for an independent investigation. If, upon investigation, the labor relations administrator finds that a charge is sufficiently supported to raise an issue of fact or law, she shall, if she is unable to achieve settlement or resolution of the matter, hold a hearing on the charge after notification to the parties. In any hearing, charging parties shall present evidence in support of the charges; and the party or parties charged shall have the right to file an answer to the charges, to appear in person or otherwise, and to present evidence in defense against the charges.
- (d) If the labor relations administrator determines that the person charged has committed a prohibited practice, she shall make findings of fact and conclusions of law and may issue an order requiring the person charged to cease and desist from the prohibited practice, and may take affirmative actions that will remedy the violation of this article. Remedies of the labor relations administrator include reinstating employees with or without back pay, making employees whole for any loss relating to county employment suffered as a result of any prohibited practices, or withdrawing or suspending the employee

organization's authority to negotiate or continue an agency shop provision or a voluntary dues or service fee deduction provision. If the labor relations administrator finds that the party charged has not committed any prohibited practices, she shall make findings of fact and conclusions of law and issue an order dismissing the charges.

- (e) The labor relations administrator shall not receive or entertain charges based upon an alleged prohibited practice occurring more than six (6) months before the filing of the charge. (1986 L.M.C., ch. 70, § 3.)

**Editor's note**—See County Attorney Opinion dated 4/21/00 explaining that conducting union business on County property does not violate the ethics law, because union business is public, not personal.

**Sec. 33-110. Expression of views.**

- (a) The expression or dissemination of any views, argument, or opinion, whether orally, in writing, or otherwise, does not constitute and is not evidence of a prohibited practice under any of the provisions of this article, nor is it grounds for invalidating any election conducted under this article if the expression or dissemination does not contain a threat of reprisal or promise of benefit.
- (b) Recognizing an employee organization does not preclude the county from dealing with religious, social, fraternal, professional, or other lawful associations with respect to matters or policies that involve individual members of the associations or are of particular applicability to it or its members. (1986 L.M.C., ch. 70, § 3.)

**Sec. 33-111. Strikes and lockouts.**

- (a) An employee or employee organization shall not either directly or indirectly cause, instigate, encourage, condone, or engage in any strike, nor the employer in any lockout. An employee or employee organization shall not obstruct, impede, or restrict, either directly or indirectly, any attempt to terminate a strike.
- (b) The employer shall not pay, reimburse, make whole, or otherwise compensate any employee for or during the period when that employee is directly or indirectly engaged in a strike, nor shall the employer thereafter compensate an employee who struck for wages or benefits lost during the strike.
- (c) If an employee or employee organization violates the provisions of this section, the employer, after adequate notice and a fair hearing before the labor relations administrator who finds that the violations have occurred and finds that any or all of the following actions are necessary in the public interest, may impose any of the following sanctions, subject to the Law-Enforcement Officers' Bill of Rights, article 27, sections 727--734D, Annotated Code of Maryland.\*

\*Editor's note—Md. Ann. Code art 27, § 727 et seq. appears in Md. Code Ann., Public Safety, Title 3, Subtitle 1 (2003).

- (1) Impose disciplinary action, including dismissal from employment, on employees engaged in the conduct.
  - (2) Terminate or suspend the employee organization's dues deduction privilege, if any.
  - (3) Revoke the certification of and disqualify the employee organization from participation in representation elections for a period up to a maximum of two (2) years.
- (d) This article does not prohibit an employer or a certified employee organization from seeking any remedy available in a court of competent jurisdiction. (1986 L.M.C., ch. 70, § 3.)

**Sec. 33-112. Effect of prior enactments.**

- (a) Nothing contained in this article shall be construed to repeal any law, executive order, rule, or regulation adopted by the county or any of its departments or agencies that is not inconsistent with the provisions of this article.
- (b) Any executive order, rule, or regulation of the county or any of its departments or agencies that regulates any subject that is bargainable under this article shall not be held to be repealed or modified by a provision of a collective bargaining agreement negotiated under this article except to the extent that the application of the order, rule, or regulation is inconsistent with the provision in the collective bargaining agreement. However, if the inconsistent order, rule, or regulation is subject to and has received council approval, the collective bargaining agreement shall not govern unless the order, rule, or regulation was identified to the council by the parties prior to the council's ratification of the collective bargaining agreement, as required by section 33-108(g); or unless the order, rule, or regulation is repealed or modified by the council. (1986 L.M.C., ch. 70, § 2.)

MONTGOMERY COUNTY CODE  
Chapter 33

§33-147

**ARTICLE X. FIRE AND RESCUE COLLECTIVE BARGAINING.****Sec. 33-147. Declaration of policy.**

The public policy of Montgomery County is to promote a harmonious, peaceful, and cooperative relationship between the County government and its fire and rescue employees and to protect the public by assuring, at all times, the responsive, orderly, and efficient operation of the Department of Fire and Rescue Services. Since unresolved disputes in the fire and rescue service harm the public and fire and rescue employees, adequate means should be available to prevent disputes and resolve them when they occur. To that end, it is in the public interest that fire and rescue employees have the opportunity to bargain collectively over wages, hours, and other terms and conditions of employment, as authorized by Charter Section 510A, through a representative of their choice, or to refrain from collective bargaining. It is also in the public interest that the County government and a representative of fire and rescue employees bargain collectively in good faith without interference with the orderly process of government, and that they implement any agreement reached through collective bargaining.

Fire and rescue employee organizations and the County government each possess substantial means for initiating actions on wages, hours, and working conditions of employees. Therefore, in order to preserve an appropriate balance between labor and management in the fire and rescue service, once the employees voluntarily select a representative collective bargaining must be used in place of, and not in addition to, existing means to initiate government action on subjects that are appropriate for collective bargaining under this Article. (1996 L.M.C., ch. 21, § 1.)

**Sec. 33-148. Definitions.**

The following terms have the meaning indicated when used in this Article:

- (1) *Agency shop* means a provision in a collective bargaining agreement requiring, as a condition of continued employment, that bargaining unit employees pay a service fee not greater than the monthly membership dues uniformly and regularly required by the employee organization of all of its members. An agency shop agreement must not require an employee to pay initiation fees, assessments, fines, or any similar collections as a condition of continued employment. A collective bargaining agreement must not require payment of a service fee by any employee who opposes joining or financially supporting an employee organization on religious grounds. However, the collective bargaining agreement may require that employee to pay an amount equal to the service fee to a nonreligious, nonunion charity, or to any other charitable organization, agreed to by the employee and the certified representative, with provision for dispute resolution if there is not agreement, and to give to the employer and the certified representative written proof of this payment. The certified representative must adhere at all times to all federal constitutional requirements in its administration of any agency shop system maintained by it.



MONTGOMERY COUNTY CODE  
Chapter 33

- (2) *Certified representative* means an employee organization chosen to represent the unit as the exclusive bargaining agent under this Article or Article VII.
- (3) *Collective bargaining* means meeting at reasonable times and places and negotiating in good faith on appropriate subjects as defined under this Article. This Article does not compel either party to agree to a proposal or make a concession.
- (4) *Employee* means a fire and rescue employee in the classification of Fire/Rescue Captain, Fire/Rescue Lieutenant, Master Firefighter/Rescuer, Firefighter/Rescuer III, Firefighter/Rescuer II, and Firefighter/Rescuer I, but not:
  - (A) an employee in a probationary status;
  - (B) an employee in the classification of District Chief or an equivalent or higher classification; or
  - (C) a Fire/Rescue Lieutenant or Captain whose primary assignment is in:
    - (i) budget;
    - (ii) internal affairs;
    - (iii) labor relations;
    - (iv) human resources;
    - (v) public information; or
    - (vi) quality assurance.
- (5) *Employee organization* means any organization that admits employees to membership and that has as a primary purpose the representation of employees in collective bargaining.
- (6) *Employer* means the County Executive and the Executive's designee.
- (7) *Lockout* means any action that the employer takes to interrupt or prevent the continuity of work properly and usually performed by the employees for the purpose and with the intent of either coercing the employees into relinquishing rights guaranteed by this Article or of bringing economic pressure on employees for the purpose of securing the agreement of their certified representative to certain collective bargaining terms.

- (8) *Mediation* means an effort by an impasse neutral chosen under this Article to assist confidentially in resolving, through interpretation, suggestion, and advice, a dispute arising out of collective bargaining between the employer and the certified representative.
- (9) *Strike* means a concerted failure to report for duty, absence, stoppage of work, or abstinence in whole or in part from the full and faithful performance of the duties of employment with the employer, or deviation from normal or proper work duties or activities, where any of these acts are done in a concerted manner for the purpose of inducing, influencing, or coercing the employer in the determination, implementation, interpretation, or administration of terms or conditions of employment or of the rights, privileges, or obligations of employment or of the status, recognition, or authority of the employee or an employee organization.
- (10) *Unit* means all employees, as defined in this section, who are associated with fire suppression, fire protection, fire communications, fire service training, rescue, and emergency medical services, and whose duties include the rescue and safety of individuals and the preservation of structures and physical property. (1996 L.M.C., ch. 21, § 1; 2001 L.M.C., ch. 15, § 1.)

**Sec. 33-149. Labor Relations Administrator.**

- (a) A Labor Relations Administrator must be appointed to effectively administer this Article as it governs selection, certification and decertification procedures and prohibited practices. The Administrator must:
  - (1) periodically adopt, amend, and repeal, under method (1), regulations and procedures to carry out the Administrator's duties under this Article;
  - (2) request from the employer or employee organization, and the employer or employee organization may at its discretion provide, any relevant assistance, service, and data that will enable the Administrator to properly carry out duties under this Article;
  - (3) hold hearings and make inquiries, administer oaths and affirmations, examine witnesses and documents, take testimony and receive evidence, and compel by issuance of subpoenas the attendance of witnesses and the production of relevant documents;
  - (4) conduct elections to certify or decertify an employee organization under this Article, and issue the certification or decertification;

MONTGOMERY COUNTY CODE  
Chapter 33

- (5) investigate and attempt to resolve or settle, as provided in this Article, charges of engaging in prohibited practices, but the Administrator must defer to the parties' grievance procedure if:
    - (A) the employer and the certified representative have negotiated a valid grievance procedure to resolve disputes, and
    - (B) deferral to the grievance procedure would not result in the application of principles repugnant to this Article;
  - (6) determine whether a person is properly included in or excluded from the unit;
  - (7) obtain any necessary support services and make necessary expenditures in the performance of duties to the extent the County has appropriated funds for these purposes; and
  - (8) exercise any other powers and perform any other duties and functions specified in this Article.
- (b) The Administrator must be a person with experience as a neutral in labor relations, and must not be a person who, because of vocation, employment, or affiliation, can be categorized as a representative of the interest of the employer or any employee organization.
- (c) The County Executive must appoint the Administrator, subject to confirmation by the County Council, from a list of 5 nominees agreed on by the certified representative and the Chief Administrative Officer. If there is no certified representative, the Executive must appoint an Administrator, subject to confirmation by the Council. If the Council does not confirm an appointment, the Executive must appoint another person from a new agreed list of 5 nominees and submit that appointee to the Council for confirmation. The Administrator serves a term of 5 years. An incumbent Administrator is automatically reappointed for another 5-year term, subject to Council confirmation, unless, during the period between 60 and 30 days before the term expires, the certified representative notifies the Chief Administrative Officer or the Chief Administrative Officer notifies the certified representative that either objects to the reappointment.
- (d) If the Administrator dies, resigns, becomes disabled, or otherwise becomes unable or ineligible to continue to serve, the Executive must appoint a new Administrator, subject to Council confirmation, to serve the remainder of the previous Administrator's term. The Administrator appointed under this subsection may be reappointed as provided in subsection (c).

- (e) The Administrator must be paid a daily fee as specified in a contract with the County, and must be reimbursed for necessary expenses incurred in performing the duties of Administrator. (1996 L.M.C., ch. 21, § 1; 2007, L.M.C., ch. 1, § 1.)

**Sec. 33-150. Employee rights.**

- (a) Employees have the right to:
  - (1) form, join, support, contribute to, or participate in, or refrain from forming, joining, supporting, contributing to, or participating in, any employee organization or its lawful activities; and
  - (2) be represented fairly by their certified representative, if any.
- (b) The employer must extend to the certified representative the exclusive right to represent the employees for the purposes of collective bargaining, including the orderly processing and settlement of grievances as agreed by the parties under this Article.
- (c) A certified representative serves as the exclusive bargaining agent for all employees in the unit and must represent fairly and without discrimination all employees in the unit without regard to whether the employees are members of the employee organization, pay dues or other contributions to it, or participate in its affairs. However, it is not a violation of this duty for a certified representative to seek enforcement of an agency shop provision in a valid collective bargaining agreement.
- (d) The right of a certified representative to receive voluntary dues or service fee deductions or agency shop provisions must be determined through negotiations, unless the authority to negotiate these provisions has been suspended under this Article. Other than an agency shop provision, a collective bargaining agreement must not require membership in, participation in the affairs of, or contributions to an employee organization. (1996 L.M.C., ch. 21, § 1.)

**Sec. 33-151. Selection, certification, and decertification procedures.**

- (a) An employee organization seeking certification as representative of the unit must file a petition with the Labor Relations Administrator stating its name, address, and its desire to be certified. The employee organization must also send a copy of the petition, including a copy of the signatures of the supporting employees on the petition, to the employer. The petition must contain the uncoerced signatures of 30 percent of the employees in the unit, signifying the employees' desire to be represented by the employee organization for purposes of collective bargaining.

- (b) If an employee organization has been certified, an employee in the unit may file a petition with the Administrator to decertify the certified representative. The employee must also send a copy of the petition to the employer and the certified representative, not including the names of the supporting employees. The petition must contain the uncoerced signatures of 30 percent of the employees in the unit, alleging that the certified employee organization is no longer the choice of the majority of the employees in the unit.
- (c) If a lawful collective bargaining agreement is not in effect, a petition may be filed under this section in September of any year, but not sooner than 22 months after an election held under this section.
- (d) If a lawful collective bargaining agreement is in effect, a petition filed under this section must not be entertained unless it is filed during September of the final year of the agreement.
- (e) If the Administrator finds that a petition is properly supported and timely filed, the Administrator must hold an election of all eligible employees within a reasonable time, but no later than the next October 20, to determine if and by whom the employees wish to be represented.
  - (1) The election must be supervised by the Administrator and must be conducted by secret ballot at the time and place that the Administrator directs. The Administrator may retain the services of a State agency responsible for conducting labor elections, or a similarly neutral body, to assist in conducting the election.
  - (2) The election ballots must contain, as choices to be made by the voter, the name of each petitioning or certified employee organization, the name of any other employee organization showing written proof at least 10 days before the election of at least 10 percent representation of the employees in the unit in the same manner as described in paragraph (a), and a choice that the employee does not desire to be represented by any of the named employee organizations.
  - (3) The employer and each party to the election may be represented by observers selected under conditions that the Administrator prescribes.
  - (4) Observers selected under paragraph (3) may challenge for good cause the eligibility of any person to vote in the election. All challenged ballots must be impounded until either the parties agree on the validity of each challenge or the Administrator decides the validity of each challenge. However, if the number of challenges will not determine the outcome of the election, the challenged ballots must be destroyed.

- (5) After the polls have been closed, the Administrator must count all valid ballots cast in the presence of the observers.
- (6) The Administrator must immediately prepare and serve on the employer and each party a report certifying the results of the election. If an employee organization receives the votes of a majority of the employees who voted, the Administrator must certify that organization as the exclusive agent.
- (7) If no employee organization receives the votes of a majority of the employees who voted, the Administrator must not certify a representative. Unless a majority of the employees who vote choose "no representative," a runoff election must be conducted. The runoff election must contain the 2 choices that received the largest and second largest number of votes in the original election.

This page is  
intentionally blank.

MONTGOMERY COUNTY CODE  
Chapter 33

§33-151

- (f) The Administrator's certification of results is final unless, within 7 days after service of the report and the certification, any party serves on all other parties and files with the Administrator objections to the election. All objections must be verified and contain a concise statement of facts constituting the grounds for each objection. The Administrator must investigate all objections and, if substantial factual issues exist, must hold a hearing. Otherwise, the Administrator may decide the matter without a hearing. The Administrator may invite, either by rule or by invitation, written or oral argument to assist in deciding the merits of the objections. If the Administrator finds that the election was conducted in substantial conformity with this Article, the Administrator must confirm the certification initially issued. If the Administrator finds that the election was not held in substantial conformity with this Article, then the Administrator must hold another election under this section.
- (g) The County must pay the cost of conducting each election. (1996 L.M.C., ch. 21, § 1; 2001 L.M.C., ch. 15, § 1.)

**Sec. 33-152. Collective bargaining.**

- (a) *Duty to bargain; matters subject to bargaining.* When an employee organization is certified, the employer and the certified representative must bargain collectively with respect to:
- (1) salary and wages, including the percentage of the increase in the salary and wages budget that is devoted to merit increments and cash awards, but salaries and wages must be uniform for all employees in the same classification;
  - (2) pension and other retirement benefits for active employees only;
  - (3) employee benefits such as, but not limited to, insurance, leave, holidays, and vacations;
  - (4) hours and working conditions;
  - (5) procedures for the orderly processing and settlement of grievances concerning the interpretation and implementation of any collective bargaining agreement, which may include:
    - (A) binding third party arbitration, but the arbitrator has no authority to amend, add to, or subtract from any provision of the collective bargaining agreement; and
    - (B) provisions for exclusivity of forum;



MONTGOMERY COUNTY CODE  
Chapter 33

- (6) matters affecting the health and safety of employees; and
  - (7) amelioration of the effect on employees when the exercise of employer rights listed in subsection (b) causes a loss of existing jobs in the unit.
- (b) *Employer rights.* This Article and any collective bargaining agreement made under it must not impair the right and responsibility of the employer to:
- (1) determine the overall budget and mission of the employer and any agency of County government;
  - (2) maintain and improve the efficiency and effectiveness of operations;
  - (3) determine the services to be rendered and the operations to be performed;
  - (4) determine the overall organizational structure, methods, processes, means, job classifications, and personnel by which operations are conducted, and the location of facilities;
  - (5) direct and supervise employees;
  - (6) hire, select, and establish the standards governing promotion of employees, and classify positions;
  - (7) relieve employees from duties because of lack of work or funds, or when the employer determines continued work would be inefficient or nonproductive;
  - (8) take actions to carry out the mission of government in emergency situations;
  - (9) transfer, assign, and schedule employees;
  - (10) determine the size, grades, and composition of the work force;
  - (11) set standards of productivity and technology;
  - (12) establish employee performance standards and evaluate employees, but evaluation procedures are subject to bargaining;
  - (13) make and implement systems for awarding outstanding service increments, extraordinary performance awards, and other merit awards;
  - (14) introduce new or improved technology, research, development, and services;

MONTGOMERY COUNTY CODE  
Chapter 33

§33-152

- (15) control and regulate the use of machinery, equipment, and other property and facilities of the employer, subject to subsection (a)(6);
  - (16) maintain internal security standards;
  - (17) create, alter, combine, contract out, or abolish any job classification, department, operation, unit, or other division or service, but the employer must not contract work which will displace employees unless it gives written notice to the certified representative 90 days before signing the contract or other notice agreed by the parties;
  - (18) suspend, discharge, or otherwise discipline employees for cause, except that, subject to Charter Section 404, any such action may be subject to a grievance procedure included in a collective bargaining agreement; and
  - (19) issue and enforce rules, policies, and regulations necessary to carry out these and all other managerial functions which are not inconsistent with this Article, federal or State law, or the terms of a collective bargaining agreement.
- (c) *Exemption.* This Article does not limit the discretion of the employer voluntarily to discuss with the representatives of its employees any matter concerning the employer's exercise of any right specified in this section. However, any matter so discussed is not subject to bargaining.
- (d) The public employer rights specified in this section must be incorporated by reference in every agreement reached between the employer and the employee organization. (1996 L.M.C., ch. 21, § 1.)

**Sec. 33-153. Bargaining, impasse, and legislative procedures.**

- (a) Collective bargaining must begin no later than the November 1 before the beginning of a fiscal year for which there is no agreement between the employer and the certified representative, and must be completed on or before January 15. The resolution of a bargaining impasse must be completed by February 1. These time limits may be waived or extended by written agreement of the parties.
- (b) Any provision for automatic renewal or extension of a collective bargaining agreement is void. An agreement is void if it extends for less than 1 year or more than 3 years. Each collective bargaining agreement must take effect July 1 and end June 30.
- (c) A collective bargaining agreement takes effect only after ratification by the employer and the certified representative. The certified representative may adopt its own ratification procedures.

- (d) Before September 10 of any year in which the employer and the certified representative bargain collectively, they must choose an impasse neutral, either by agreement or through the processes of the American Arbitration Association. The impasse neutral must be available from January 15 to February 1. The impasse neutral's fees and expenses must be shared equally by the employer and the certified representative.
- (e) During the course of collective bargaining, either party may declare an impasse and request the services of the impasse neutral, or the parties may jointly request those services before declaring an impasse. If the parties have not agreed on a collective bargaining agreement by January 15, an impasse exists by operation of law.
- (f) When an impasse is reached, the parties must submit the dispute to the impasse neutral. The impasse neutral must attempt mediation by bringing the parties together voluntarily under conditions that will tend to bring about a settlement of the dispute.
- (g) If the impasse neutral, in the impasse neutral's sole discretion, finds that the parties are at a bona fide impasse, the impasse neutral must require the parties to jointly submit all items previously agreed on, and each party to submit a final offer consisting of proposals not agreed upon. Neither party may change any proposal after it is submitted to the impasse neutral as a final offer, except to withdraw a proposal on which the parties have agreed.
- (h) The impasse neutral may require the parties to submit evidence or present oral or written arguments in support of their proposals. The impasse neutral may hold a hearing at a time, date, and place selected by the impasse neutral. The hearing must not be open to the public.
- (i) On or before February 1, unless that date is extended by written agreement of the parties, the impasse neutral must select the final offer that, as a whole, the impasse neutral judges to be the more reasonable. In determining which final offer is the more reasonable, the impasse neutral may consider only the following factors:
  - (1) past collective bargaining agreements between the parties, including the past bargaining history that led to the agreements, or the pre-collective bargaining history of employee wages, hours, benefits, and working conditions;
  - (2) wages, hours, benefits and conditions of employment of similar employees of other public employers in the Washington Metropolitan Area and in Maryland;
  - (3) wages, hours, benefits, and conditions of employment of other Montgomery County employees;

MONTGOMERY COUNTY CODE  
Chapter 33

§33-153

- (4) wages, benefits, hours, and other working conditions of similar employees of private employers in Montgomery County;
  - (5) the interest and welfare of the public; and
  - (6) the ability of the employer to finance economic adjustments, and the effect of those adjustments on the normal standard of public services provided by the employer.
- (j) The impasse neutral must base the selection of the most reasonable offer on the contents of the offer and the integration of any previously agreed-on items with the disputed items. In making a decision, the impasse neutral must not consider or receive any evidence or argument concerning offers of settlement not contained in the offers submitted to the impasse neutral, or any other information concerning the collective bargaining leading to impasse. The impasse neutral must neither compromise nor alter the final offer that he or she selects.
- (k) The final offer selected by the impasse neutral, integrated with any items previously agreed on, is the final agreement between the parties, need not be ratified by any party, and has the force and effect of an agreement voluntarily entered into and ratified under subsection (c). The parties must execute that agreement.
- (l) In each proposed annual operating budget, the County Executive must describe any collective bargaining agreement or amendment to an agreement that is scheduled to take effect in the next fiscal year and estimate the cost of implementing that agreement. The annual operating budget must include sufficient funds to pay for the items in the parties' final agreement. The employer must expressly identify to the Council by April 1, unless extenuating circumstances require a later date, all terms and conditions in the agreement that:
- (1) require an appropriation of funds, or
  - (2) are inconsistent with any County law or regulation, or
  - (3) require the enactment or adoption of any County law or regulation, or
  - (4) which have or may have a present or future fiscal impact.

If a later submission is necessary, the employer must specify the submission date and the reasons for delay to the Council President by April 1. The employer must make a good faith effort to have the Council take action to implement all terms and conditions in the parties' final agreement.

MONTGOMERY COUNTY CODE  
Chapter 33

- (m) Each agreement submitted to the Council must include:
  - (1) all proposed legislation and regulations necessary to implement the agreement;
  - (2) all changes from the previous collective bargaining agreement, indicated by brackets and underlines or a similar notation system; and
  - (3) all side letters or other extraneous documents that are binding on the parties.
- (n) The Council may hold a public hearing to enable the parties and the public to testify on the agreement.
- (o) The Council may accept or reject all or part of any term or condition in the agreement which:
  - (1) requires an appropriation of funds, or
  - (2) is inconsistent with any County law or regulation, or
  - (3) requires the enactment or adoption of any County law or regulation, or
  - (4) which has or may have a present or future fiscal impact.

On or before May 1, the Council must indicate by resolution its intention to appropriate funds for or otherwise implement the agreement or its intention not to do so, and must state its reasons for any intention to reject any part of the parties' final agreement. The Council, by majority vote taken on or before May 1, may defer the May 1 deadline to any date not later than May 15.

- (p) If the Council indicates its intention to reject any part of the parties' final agreement, it must select a representative to meet with the parties and present the Council's views in the parties' further negotiation on matters that the Council has indicated its intention to reject. This representative must also participate fully in stating the Council's position in any ensuing impasse procedure. The parties must meet as promptly as possible and attempt to negotiate an agreement acceptable to the Council. Either party may at this time initiate impasse procedures under this section. The parties must submit the results of the negotiation, whether a complete or a partial agreement, to the Council on or before May 10. If the Council has deferred the May 1 deadline, that action automatically postpones the May 10 deadline by the same number of days. The Council then must consider the agreement as renegotiated by the parties and indicate by resolution its intention to appropriate funds for or otherwise implement the agreement or its intention not to do so.

MONTGOMERY COUNTY CODE  
Chapter 33

§33-153

- (q) Any agreement must provide for automatic reduction or elimination of wage or benefits adjustments if:
  - (1) the Council does not take action necessary to implement the agreement or a part of it; or
  - (2) sufficient funds are not appropriated for any fiscal year when the agreement is in effect.
- (r) *Later years.* The process and timetable in subsections (o) and (p) apply to Council review of wage or benefits adjustments after the first year or any multi-year agreement.
- (s) *Out-of-cycle amendments.* The process in subsections (o) and (p) applies to Council review of any amendment to a collective bargaining agreement that the Council receives after May 15 of any year, but the deadlines in those subsections do not apply. The Council President must set action deadlines which result, to the extent feasible, in a similar timetable relative to the date the Council received the amendment. (1996 L.M.C., ch. 21, § 1; 2003 L.M.C., ch. 22, § 1.)

**Sec. 33-154. Prohibited practices.**

- (a) The employer and its agents or representatives must not:
  - (1) interfere with, restrain, or coerce employees in the exercise of any rights granted to them under this Article;

This page is  
intentionally blank.

- (2) dominate or interfere with the formation or administration of any employee organization or contribute financial or other support to it, under an agreement or otherwise, but the employer and certified representative may agree to and apply an agency shop provision under this Article and a voluntary dues or service fee deduction provision, and may agree to reasonable use of County facilities to communicate with employees.
  - (3) encourage or discourage membership in any employee organization by discriminating in hiring, tenure, wages, hours, or conditions of employment, but this Article does not preclude an agreement from containing an agency shop provision;
  - (4) discharge or discriminate against a public employee because the employee files charges, gives testimony, or otherwise lawfully aids in administering this Article;
  - (5) refuse to bargain collectively with the certified representative;
  - (6) refuse to reduce to writing or sign a collective bargaining agreement that has been agreed to in all respects;
  - (7) refuse to process or arbitrate a grievance if required under a grievance procedure contained in a collective bargaining agreement;
  - (8) directly or indirectly oppose the appropriation of funds or the enactment of legislation by the County Council to implement an agreement reached under this Article; or
  - (9) engage in a lockout of employees.
- (b) Employee organizations and their agents, representatives, and persons who work for them, must not:
- (1) interfere with, restrain, or coerce the employer or any employee in the exercise of any rights granted under this Article;
  - (2) restrain, coerce, or interfere with the employer in the selection of its representative for collective bargaining or the adjustment of grievances;
  - (3) refuse to bargain collectively with the employer if the employee organization is the certified representative;



- (4) refuse to reduce to writing or sign a collective bargaining agreement which has been agreed to in all respects;
  - (5) hinder or prevent, by threats of violence, intimidation, force, or coercion of any kind, the pursuit of any lawful work or employment by any person, public or private, or obstruct or otherwise unlawfully interfere with the entrance to or exit from any place of employment, or obstruct or unlawfully interfere with any person's free and uninterrupted use of any road, railway, airport, or other mode of travel;
  - (6) hinder or prevent by threats, intimidation, force, coercion, or sabotage, the obtaining, use, or disposition of materials, supplies, equipment, or services by the employer;
  - (7) take or retain unauthorized possession of property of the employer, or refuse to do work or use certain goods or materials as lawfully required by the employer; or
  - (8) cause or attempt to cause the employer to pay or deliver or agree to pay or deliver any money or other thing of value, in the nature of an exaction, for services which are neither performed nor to be performed.
- (c) A charge of prohibited practice may be filed by the employer, an employee organization, or any individual employee. Each charge must be filed with the Labor Relations Administrator, and a copy must be sent to any person who allegedly committed a prohibited practice. Each charge must state facts sufficient to allow the Administrator to investigate the charge. The Administrator may request withdrawal of and, if necessary, summarily dismiss any charge which is insufficiently supported in fact or law to warrant a hearing.
- (d) The Administrator may independently investigate any charge and may adopt rules for an independent investigation. If, after investigating, the Administrator finds that a charge is sufficiently supported to raise an issue of fact or law and is unable to settle or resolve the matter, the Administrator must hold a hearing on the charge after notifying the parties. In any hearing, the charging party must present evidence in support of the charges; and the party or parties charged may file an answer, appear in person or otherwise, and present evidence in defense against the charges.
- (e) If the Administrator finds that the person charged has committed a prohibited practice, the Administrator must file findings of fact and conclusions of law, may order the person charged to cease and desist from the prohibited practice, and may take affirmative actions to remedy any violation of this Article. Remedies available under this subsection include reinstating employees with or without back pay, making employees whole for

any loss relating to County employment suffered as a result of any prohibited practice, or withdrawing or suspending an employee organization's authority to negotiate or continue an agency shop provision or a voluntary dues or service fee deduction provision. If the Administrator finds that the party charged has not committed a prohibited practice, the Administrator must file findings of fact and conclusions of law and dismiss the charges.

- (f) The Administrator must summarily dismiss any charge based on an alleged prohibited practice which occurred more than 6 months before the charge was filed.
- (g) Any party aggrieved by a final decision of the Administrator under this section may appeal the decision to the Circuit Court for Montgomery County in accordance with the court rules governing administrative appeals. The court may affirm, reverse, or modify the decision, or remand the case for further proceedings. The filing of an appeal does not stay the Administrator's order. Any party to the proceeding in the Circuit Court may appeal the Court's decision under applicable provisions of State law and court rules. (1996 L.M.C., ch. 21, § 1.)

**Sec. 33-155. Expression of views.**

- (a) Expressing or disseminating any views, argument, or opinion, orally, in writing, or otherwise:
  - (1) is not a prohibited practice or evidence of a prohibited practice under this Article; and
  - (2) is not grounds to invalidate any election conducted under this Article; unless the expression or dissemination contains a threat of reprisal or promise of benefit.
- (b) Recognizing an employee organization does not preclude the County from dealing with religious, social, fraternal, professional, or other lawful associations with respect to matters or policies that involve individual members of those associations or particularly apply to those associations or their members. (1996 L.M.C., ch. 21, § 1.)

**Sec. 33-156. Strikes and lockouts.**

- (a) An employee or employee organization must not either directly or indirectly cause, instigate, encourage, condone, or engage in any strike, nor the employer any lockout. An employee or employee organization must not obstruct, impede, or restrict, either directly or indirectly, any attempt to terminate a strike.

- (b) The employer must not pay, reimburse, make whole, or otherwise compensate any employee for or during the period when that employee is directly or indirectly engaged in a strike. The employer must not compensate an employee who struck for wages or benefits lost during a strike.
- (c) If an employee or employee organization violates this section, and after adequate notice and a fair hearing the Labor Relations Administrator finds that the violations have occurred and that any or all of the following sanctions are necessary in the public interest, the employer may:
  - (1) discipline, or dismiss from employment, any employee who engaged in the conduct;
  - (2) terminate or suspend an employee organization's dues deduction privilege, if any; or
  - (3) revoke the certification of and disqualify the employee organization from participation in representation elections for a period up to a maximum of 2 years.
- (d) This Article does not prohibit an employer or a certified employee organization from seeking any remedy available in a court with jurisdiction. (1996 L.M.C., ch. 21, § 1.)

**Sec. 33-157. Effect of prior laws and regulations.**

- (a) This Article supersedes any law, executive order, rule, or regulation adopted by the County or any County department or agency which is inconsistent with this Article.
- (b) Any executive order, rule, or regulation of the County or any County department or agency which regulates any subject that is bargainable under this Article is not superseded or modified by a collective bargaining agreement negotiated under this Article, except to the extent that the application of the order, rule, or regulation is inconsistent with the collective bargaining agreement.
- (c) However, if the inconsistent order, rule, or regulation is subject to and has received County Council approval, a collective bargaining agreement does not supersede or modify it unless:
  - (1) the order, rule, or regulation was expressly identified to the Council by the parties before the Council reviewed the collective bargaining agreement, as required by Section 33-153(l), and the Council did not reject the inconsistent term or condition of the collective bargaining agreement under Section 33-153(n); or

- (2) the Council repeals or modifies the order, rule, or regulation. (1996 L.M.C., ch. 21, § 1.)

**ARTICLE XI. OTHER POST EMPLOYMENT BENEFITS TRUST.**

**Sec. 33-158. Definitions.**

In this Article, the following words and phrases have the following meanings:

- (a) *Board*: The Board of Investment Trustees established under Article III.
- (b) *Contribution*: payment made to the Trust Fund by the County.
- (c) *Custodian*: The Director of Finance.
- (d) *Investment manager*: a person or entity who exercises discretion to manage all or part of the assets of an institutional investor.
- (e) *Participating Agency*: an agency eligible to participate in County benefit plans under Section 20-37(b) which elects to participate in any County retiree benefit plan.
- (f) *Retiree benefit plan*: any retiree medical plan, dental plan, vision plan, or life insurance plan administered by the Chief Administrative Officer.
- (g) *Trust Fund*: the Retiree Health Benefits (RHB) Trust Fund established to pay all or part of the benefits provided under any retiree benefit plan. (2008 L.M.C., ch 3, § 1.)

**Sec. 33-159. Establishment of Trust.**

- (a) *County Retiree Benefit Plans*. The Chief Administrative Officer must include the terms of any retiree benefit plan, including eligibility and benefits, including those benefits collectively bargained, in a plan document. All benefits must meet any applicable Federal or State requirement. Subject to the County's obligations under collective bargaining agreements and the collective bargaining laws, to the extent applicable, the Chief Administrative Officer may amend a plan document at any time. Subject to the County's obligations under collective bargaining agreements and the collective bargaining laws, to the extent applicable, any retiree benefit plan may be terminated at any time for any reason. No retiree benefit is guaranteed, except as expressly provided by a contract entered into by the County.
- (b) *Establishment of Trust*. An Other Post Employment Benefits Trust, known as the Retiree Health Benefits (RHB) Trust, effective July 1, 2007, is established to fund all or a portion of benefits provided under the County retiree benefit plans. The Trust is intended solely as a funding mechanism to pay for County retiree benefits provided

under the terms of any retiree benefit plan, and does not create any obligation by the County to provide any benefit listed in any County retiree benefit plan. Any participant in a retiree benefit plan, any current or former County employee, or any current or former participating agency employee, has no right to any asset in the Trust fund. The Trust Fund may be, but is not required to be, the sole source of funding for any County retiree benefit plan.

- (c) *Type of Trust.* The County intends that the Trust Fund:
- (1) be used to perform its essential government function of providing benefits, including health and life insurance benefits, to participants and eligible dependents; and
  - (2) qualify as a tax exempt trust under Internal Revenue Code Section 115.
- (d) *Assets of Trust Fund.* All contributions and all earnings and other additions, less payments, constitute the assets of the Trust Fund.
- (e) *Exclusive Benefit.* The Trust Fund must be held for the exclusive benefit of participants in retiree benefit plans and eligible dependents, and used only to provide benefits and defray reasonable expenses of administering retiree benefit plans. Trust Fund assets must not revert to the County unless the County terminates all retiree benefit plans. Some funds may partially revert to the County if at least one benefit plan is terminated under Section 33-166. (2008 L.M.C., ch 3, § 1.)

#### **Sec. 33-160. Board of Trustees.**

*Management.* The Board of Investment Trustees established under Section 33-59 is responsible for managing the Trust Fund. The Board must hold legal title to all assets of the Trust Fund, but may transfer some incidents of ownership to the Board's agents as provided in this Article. The powers and duties of the Board under this Article are not effective until the Board members have accepted the Trust Fund in writing. Within 10 days after the Council confirms a Board member, the member must certify in writing to the Chief Administrative Officer that the member accepts the Trust Fund and will administer its affairs with care, skill, prudence, and diligence. (2008 L.M.C., ch 3, § 1.)

#### **Sec. 33- 161. Contributions and payments.**

- (a) *County Contributions.* The County may contribute to the Trust Fund those amounts that the Council appropriates. The County is not required to make any contribution to the Trust Fund unless a written contract with one or more beneficiaries so requires.

BILL NO. 11-76

Introduced: April 6, 1976  
Enacted: December 14, 1976  
Executive: December 27, 1976  
Effective: March 13, 1977

COUNTY COUNCIL  
FOR MONTGOMERY COUNTY, MARYLAND  
April Legislative Session 1976  
Chapter 27

AN ACT to add a new Article IV, title "Employer-Employee Relations Act," to Chapter 33, title "Personnel" of the Montgomery County Code, 1972, as amended, to provide for the election and certification of employee organizations for the purposes of meeting with County officials concerning conditions of employment and the resolution of grievances; to provide for the designation of employee units from which such employee organizations are elected and which such organizations represent; to provide for the recognition of such employee organizations by the County; to provide for the preparation of position papers by the County and such employee organizations; to provide for procedures for the decertification of employee organizations; to define certain terms; to provide for the Chief Administrative Officer to finally resolve disputes arising under this Article; to specify responsibilities of the County and the employee organizations; to provide for the protection of those County employees who choose not to become members of an employee organization; and to provide for the retention of existing personnel laws and regulations and the option of any employee to pursue a grievance through procedures set forth therein.

Be It Enacted by the County Council for Montgomery County, Maryland, that

Sec. 1. Chapter 33, title "Personnel," of the Montgomery County Council is hereby amended to add a new Article IV, title "Employer-Employee Relations," to the Montgomery County Code 1972, as amended, after Article III thereof, and to read as follows:

ARTICLE IV

EMPLOYER-EMPLOYEE RELATIONS

33-62. Statement of Legislative Intent.

The County Council hereby finds that the trend in labor relations between government and its employees is becoming somewhat aligned with the practices of the private sector of representation of employee groups by designated and elected employee organizations. The Council believes that government should take the initiative in providing a vehicle whereby government employee representation can emerge and evolve in a fashion consistent with both the needs of the employee and those of government. The Council further believes that this can best be accomplished by enacting local legislation which provides for the voluntary representation of government employees by their duly designated and elected employee organizations. The Council also believes that the efficient administration of the County government is enhanced by providing employees an opportunity to participate in the formulation and implementation of policies and practices affecting the conditions of their employment. Because the Council believes it is desirable to minimize the proliferation of employee units, it has limited the number of such units to seven; however, the Council would consider changing that limitation at a future date upon the recommendation of the Chief Administrative Officer or an affected group of employees. The Council further states that the eligibility as to membership in an employee unit for purposes of this meet-and-confer type of employee representation would not necessarily be extended in the same manner if authority for collective bargaining were granted. Membership or non-membership in an employee organization shall in no way limit the ability of an employee to obtain government information to which he/she would normally have access. Nothing in this Article shall restrict the ability of any employee, whether member or non-member of an employee organization, to discuss matters concerning employees or employee groups to the extent that such discussion does not conflict with the duties and responsibilities of the employee.

33-63. Definitions.

As used herein, the following words and phrases shall be defined as follows:

- a. "Certification" -- the procedure whereby employee organizations are elected and recognized to represent employee units.
- b. "Decertification" -- the procedure by which the Chief Administrative

Officer withdraws County recognition of an employee organization, with or without an election by the employees of an employee unit.

c. "Employee" -- Any County merit system employee working on a continuous full-time, career or part-time, career basis, eligible to be included in a unit of recognition except for the following:

- (1) Confidential aids to elected officials;
- (2) All non-merit system employees;
- (3) All heads of principal departments, offices, and agencies;
- (4) Deputy or assistant department heads;
- (5) Employees providing direct staff or administrative support to the director of the department, or deputy or assistant directors within the director's immediate office;

(6) Employees who report directly to or whose immediate supervisor is the County Executive, County Council, County Councilmembers or the Chief Administrative Officer and the principal aides to the foregoing:

- (7) Employees of the Office of the County Attorney;
- (8) Employees of the Office of Budget and Research;
- (9) Employees of the Office of Employee Relations;
- (10) Employees of the Personnel Office;
- (11) Employees of the Personnel Board;
- (12) Heads of the following constituent offices, divisions and sections in the Department of Transportation existing at the time of enactment of this bill and positions carrying a similar degree of personnel management responsibilities in other departments and offices as determined by the Chief Administrative Officer:

Director's Office, Office of the Right of Way Acquisition, Office of Administrative Services, Office of Transportation Planning, Division of Transportation Engineering, Subdivision Development Section, Design Section, Construction Section, Division of Traffic Engineering, Traffic Planning and Survey Section, Traffic Operations Section, Division of Operations, TESS Minibus, Highway Maintenance Section, Equipment Section, and Division of Parking Lot Districts.

d. "Employee organization" -- any lawful organization which represents employees in their employment relations with the County. The term "employee organization" does not include any organization which:



(1) discriminates with regard to terms and conditions of membership with regard to race, color, religion, creed, sex, age, national origin, ancestry, or marital status;

(2) does not adhere to democratic procedures and practices with regard to election of officers, individual participation in organizational affairs, equal treatment under its bylaws, including dues processing, and disciplinary procedures; or

(3) does not maintain fiscal integrity in the conduct of the affairs of the organization, including accounting controls and regular financial reports to members.

e. "Employee unit" -- groupings of employees for purposes of representation in County/employee relations.

f. "Position paper" -- a non-binding written memorandum reflecting all items discussed by the County and an employee organization.

g. "Uniformed services" -- those activities engaged in the protection of life and property, law enforcement or correctional activities, and whose employees have as their primary duties and responsibilities the operational activities of such public safety activities.

#### 33-64. Employee rights.

a. An employee shall have the right, freely and without fear of penalty or reprisal, to form, join or assist and be represented by an employee organization or to refrain from any such activity.

b. Each employee shall have the right to be represented by employee organizations, including the right to meet with representatives of the County concerning conditions of employment and the resolution of grievances.

c. Nothing in this Article shall preclude the rights of an employee to pursue an individual grievance through established administrative procedures or through appeal to the Personnel Board, in that nothing in this Article shall circumvent or shall be deemed to supersede or annul the provisions of the Laws of the State of Maryland, the Montgomery County Charter, and the Laws and Ordinances of Montgomery County including the Personnel Regulations.

d. No employee, who is not a member of an employee organization shall ever be required to become a member of such an organization or to pay money to such an organization, except on a purely voluntary basis.

33-65. Determination of employee units.

a. The Chief Administrative Officer shall make the final determination as to the composition of employee units. In undisputed cases, the determination of appropriate units shall be made by the Chief Administrative Officer within thirty (30) calendar days after receipt of a request for certification under Section 33-66 of this Article.

b. Employee units may be established on the basis of groupings of employees who share a clear and identifiable community of interest. Such factors as those employees sharing common skills, working conditions, physical locations, organizational structures, and integrated work processes shall be considered. A unit shall not be established solely on the basis of the extent to which employees in a proposed unit have organized.

c. Determination of units shall be made so as to include the largest possible numbers of employees consistent with maintaining a community interest of employees to avoid proliferation and fragmentation of representative units. The provisions of this Section shall not preclude the establishment of one unit to represent all eligible employees. The number of units certified shall not be greater than seven.

d. Units for employees of the uniformed services shall be limited to employees in the ranks of Corporal or equivalent rank and below.

e. In cases where the matters of unit determination are questioned, the decision of the Chief Administrative Officer shall be final after opportunity is provided for those disputing the determination to be heard by the Chief Administration Officer.

33-66. Procedures for certification of employee organizations.

a. Initially or where there is no official representative employee organization, the Chief Administrative Officer, upon petition of an employee organization showing written evidence of interest by at least thirty percent (30%) of the employees of the employee unit, shall arrange for the conducting of a secret ballot

election to determine whether the employees desire such organization to act as their representative. Following such petition, the Chief Administrative Officer shall give an appropriate notice to the employees involved.

b. An employee organization seeking to represent an employee unit shall submit to the Personnel Office a roster of its officers and representatives, a copy of its constitution and bylaws, and a schedule of dues for its members.

c. Eligibility to vote in any election for choice of an official representative shall be limited to employees who are filling County positions as of the beginning of the pay period preceding the election date.

d. Elections will be conducted by the Personnel Office which may use the services of the Maryland State Division of Labor and Industry or any other third party having similar qualifications.

e. The ballot shall contain the name of any additional employee organization showing timely written evidence of interest by at least ten percent (10%) of the employees within the appropriate employee unit. In every instance, the ballot shall contain a provision for a marking of "no representation." Where more than one employee organization is on the ballot and no one of the organizations receives a majority vote of the employees voting, a runoff election shall be held. The runoff election shall contain the two choices which received the largest and second largest number of votes in the original election.

f. When an organization receives a majority of valid votes cast in the election and when at least sixty percent (60%) of the employees eligible to participate in the election cast valid ballots, the Chief Administrative Officer shall certify it as the official employee organization for the employee unit.

g. The County shall recognize as the official employee relations representative an employee organization which has been selected in accordance with procedures outlined in this Section 33-66.

h. Recognizing an employee organization does not preclude the County from dealing with religious, social, fraternal, professional or other lawful associations with respect to matters or policies which involve individual members of the associations or are of particular applicability to it or its members.

i. No question concerning certification may be raised by an employee or an employee organization within one (1) year of the date of certification of an employee organization or the date that a majority of the employees voting voted for no representation.

j. The County may, after discussions with an employee organization and on the basis of written authorization from each employee, provide for deduction from the pay of such employee monies in payment of membership dues in a duly certified employee organization. Such monies shall be remitted to the employee organization.

33-67. Procedure for decertification of employee organizations.

a. An employee organization shall be subject to decertification when thirty percent (30%) of the employees in the employee unit petition for the employee organization to be decertified. The procedures for determining whether, in fact, an employee organization shall be decertified shall be the same as those prescribed in Section 33-66 for the certification of an employee organization, except as provided in subsection b of this Section 33-67.

b. If an employee organization fails to adhere to any of the provisions of Section 33-73 dealing with employee organization responsibilities, then:

- (1) its certification may be revoked by the Chief Administrative Officer after notice and an opportunity to be heard, and
- (2) it may be disqualified by the Chief Administrative Officer from participating in representation elections for a period of up to two (2) years after notice and an opportunity to be heard.

33-68. Costs of conducting elections.

Any cost of conducting a secret ballot election under this Article shall be borne 50% by the County and 50% borne equally by the employee organization(s) whose name(s) appear on the ballots.

33-69. County-employee organization meetings and discussions.

a. An employee organization which has been recognized by the County pursuant to Section 33-66 shall be entitled to meet at reasonable times with County representatives to discuss with such representatives personnel policies,

practices and matters affecting working conditions of the employee unit it represents, so far as discussions may be appropriate under existing laws or regulations. The County shall meet at least two times annually with each certified employee organization.

b. The requirement to meet shall not obligate either the County or an employee organization to agree to any proposal or to make any concession with respect to any matter discussed by the parties at such a meeting. Any decision made at any such meeting is in no way binding upon the parties.

c. The County and an employee organization may, if desired, and at the conclusion of their discussions, jointly or separately, prepare written position papers which reflect for future reference the respective positions of the parties on the issues discussed at such meetings. Such position papers shall in no way legally bind any party to the matters expressed therein and the County shall not be obligated to concur in a position paper addressing the inherent right to manage the County Government.

33-70. Employee organization representation of employee members.

a. An employee who is a member of an employee organization may request and shall be granted the right for a member or representative of such organization to be present in any discussions or counseling with County representatives concerning an individual grievance.

b. An employee organization may submit a grievance concerning any dispute involving a claim of violation, misinterpretation or misapplication of the Personnel Regulations or work practices of the County on the same basis as provided for individual grievances.

33-71. Disputes.

All decisions of the Chief Administrative Officer under the provisions of this Article shall be final, subject to appeal to the Montgomery County Personnel Board where provided by law.

33-72. County responsibilities.

It shall be the responsibility of the County not to:

a. Interfere with, restrain, or coerce an employee in the exercise

of the rights assured by this Article;

b. Encourage or discourage membership in an employee organization by discrimination in regard to hiring, tenure, promotion or other conditions of employment;

c. Sponsor, control or otherwise assist an employee organization, except that the County may furnish customary and routine services and facilities when consistent with the best interest of the County, its employees, and the organization, and when the services and facilities are furnished, if requested, on an impartial basis to organizations having equivalent status;

d. Refuse to accord appropriate recognition to an employee organization qualified for such recognition; or

e. Refuse to consult, confer, or meet with an employee organization certified pursuant to this Article.

33-73. Employee organization responsibilities.

It shall be the responsibility of every employee organization not to:

a. Interfere with, restrain, or coerce an employee in the exercise of the rights assured by this Article;

b. Attempt to induce the County to coerce an employee in the exercise of the rights under this Article;

c. Coerce, attempt to coerce, or discipline, fine, or take other economic sanction against an employee member of an employee organization as punishment or reprisal, or for the purpose of hindering or impeding work performance or the discharge of duties owed as an employee of the County;

d. Call or engage in a strike, work stoppage, or slowdown, picket the County in connection with a strike, work stoppage or slowdown in a County-employee dispute, or condone any such activity by failing to take affirmative action to prevent or stop it;

e. Discriminate against an employee with regard to the terms or conditions of membership because of race, color, religion, creed, sex, age, national origin, ancestry, or marital status;

Sec. 2. Severability.

The provisions of this Act are severable and if any provision, clause, sentence, section, word or part thereof is held illegal, invalid or unconstitutional, or inapplicable to any person or circumstances, such illegality, invalidity or unconstitutionality, or inapplicability shall not affect or impair any of the remaining provisions, clauses, sentences, sections, words, or parts of the Act or their application to other persons or circumstances. It is hereby declared to be the legislative intent that this Act would have been adopted if such illegal, invalid, or unconstitutional provision, clause, sentence, section, word or part had not been included therein, and if the person or circumstances to which the Act or part thereof is inapplicable had been specifically exempted therefrom.

Sec. 3. Effective Date

This Act shall take effect on the 76th day following the date on which it becomes law.

APPROVED:

John L. Menke  
President, Montgomery County Council

Dec 17, 1976  
Date

James D. Shuman  
County Executive

Dec. 27, 1976  
Date

ATTEST:

Carl J. Steele  
Deputy Secretary of the Council

Dec. 27, 1976  
Date

BILL NO. 37-73

Introduced: July 18, 1978  
Enacted: November 17, 1978  
Executive: Returned Unsigned  
Effective: February 14, 1979

COUNTY COUNCIL  
FOR MONTGOMERY COUNTY, MARYLAND  
July Legislative Session 1978

Chapter 39

AN ACT to amend Chapter 33, title "Personnel," Article IV, title "Employer-Employee Relations Act," Montgomery County Code 1972, as amended, by adding a new Section 33-74 thereto, title "Cost-of-Living Adjustment" to provide for an annual cost-of-living adjustment for all County employees whose salaries are determined by the uniform salary plan.

Be It Enacted by the County Council for Montgomery County, Maryland, that -

Sec. 1. Declaration of Policy and Legislative Intent.

It is hereby declared to be the policy of Montgomery County, Maryland, to provide for and ensure in an orderly, uniform manner as part of its budgetary process, guaranteed annual wage adjustments to merit system employees of the County Government to compensate them for increases in area-wide consumer prices and other cost-of-living factors.

It is further declared to be the public policy of Montgomery County, Maryland, that such wage increases shall be at least 75% of the change in the Consumer Price Index for All Urban Consumers for the Washington, D.C. Area; and such increases are recognized as necessary to recruit and retain a high quality work force and prevent inflation and other invidious economic factors from undermining the compensation paid to members of its work force.

Sec. 2. Chapter 33, title "Personnel," Article IV, title "Employer-Employee Relations Act," of the Montgomery County Code 1972, as amended, is



hereby amended by adding a new Section 33-74 thereto, title "Cost-of-Living Adjustment" to read as follows:

**33-74. Cost-of-Living Adjustment.**

The County Executive shall provide as a part of the annual recommended operating budget for the County Government sufficient funds to implement the cost-of-living adjustment required by this Section. The Council shall accord one of the highest priorities to the full funding of the cost-of-living adjustment, shall fund fully the 75% of Consumer Price Index cost-of-living adjustment unless reasons are given for not doing so, and shall make a finding in the budget resolution as to the extent to which full funding is achieved. Unless otherwise provided in the approved budget resolution which includes a finding that implementation of the full amount of the adjustment would necessitate substantial lay-offs of personnel or result in other widespread hardship to County Government employees, the Chief Administrative Officer shall adjust the uniform salary plan for all classified employees of the Montgomery County government beginning the first pay period on or after July 1 of each year by an amount not less than seventy-five percent (75%) of the change in the Consumer Price Index for All Urban Consumers in the Washington, D. C. Area, although pay grades 1 through 4 of the uniform salary plan to which minimum wage and certain seasonal employees are assigned will be adjusted by changes in the minimum wage rates and salary surveys to determine the competitiveness of such salaries. The percentage change shall be based on the latest published index for the calendar year preceding the fiscal year in which the adjustment is to be paid.

The Chief Administrative Officer may adjust the uniform salary plan in excess of the base percentage of seventy-five percent (75%), provided funds are available and approved by the County Council for such purpose.

**Sec. 3. Severability.**

The provisions of this Act are severable and if any provision, clause, sentence, section, word or part thereof is held illegal, invalid, or unconstitutional, or inapplicable to any person or circumstances, such illegality, invalidity, or unconstitutionality, or inapplicability shall not affect or impair any of the remaining provisions, clauses, sentences, sections, words, or parts of the Act or their application to other persons.

or circumstances. It is hereby declared to be the legislative intent that this Act would have been adopted if such illegal, invalid, or unconstitutional provision, clause, sentence, section, word or part thereof had not been included therein, and if the person or circumstances to which the Act or part thereof is inapplicable had been specifically exempted therefrom.

Sec. 4. Effective date.

This Act shall take effect on the 76th day following the date on which it becomes law.

Approved:

Elizabeth P. Scull  
President, Montgomery County Council

11/20/78  
Date

Approved:

Returned Unsigned  
County Executive

11/29/78

(Bill became law 14 days  
after enactment on Dec. 1, 1978)

ATTEST:

Annat P. Spataro  
Secretary of the County Council

11/29/79  
Date

This page is  
intentionally blank.

Introduced: March 20, 1979  
Enacted: October 2, 1979  
Executive: October 11, 1979  
Effective: January 10, 1980

COUNTY COUNCIL  
FOR MONTGOMERY COUNTY, MARYLAND

March Legislative Session 1979

Chapter 11

Laws of Montgomery County 1980

AN ACT to amend Subsection 33-45(f) of Section 33-45, titled "Procedures for Certification of Employee Organizations" of Article IV, title "Employer-Employee Relations" of Chapter 33, titled "Personnel" of the Montgomery County Code, 1972, as amended, to provide for an exclusive representation upon the casting of a certain percentage of votes.

Be It Enacted by the County Council for Montgomery County, Maryland, that -

Sec. 1. Subsection 33-45(f) of Section 33-45, titled "Procedures for Certification of Employee Organizations", of Article IV, title "Employer-Employee Relations" of Chapter 33, titled "Personnel" of the Montgomery County Code, 1972, as amended, is hereby repealed and re-enacted with amendments to read as follows:  
33-45. Procedures for Certification of Employee Organizations.

\* \* \*

(f) When an organization receives at least fifty percent (50%) of valid votes cast in the election, the Chief Administrative Officer shall certify it as the official employee organization for the employee unit.

\* \* \*

Sec. 2. Severability.

The provisions of this Act are severable, and if any provision, clause, sentence, section, word or part thereof is illegal, invalid or unconstitutional, or inapplicable to any person or circumstances, such illegality, invalidity or unconstitutionality, or inapplicability shall not affect or impair any of the remaining provisions, clauses, sentences, sections, words, or parts of the Act

or their application to other persons or circumstances. It is hereby declared to be the legislative intent that this Act would have been adopted if such illegal, invalid, unconstitutional or inapplicable provision, sentence, section, word, or part had not been included therein, and if the person or circumstances to which the Act or part thereof is inapplicable had been specifically exempted therefrom.

Sec. 3. Effective Date.

This Act shall take effect on the 91st day following the date on which it becomes law.

Approved:

Scott Foster Oct. 3, 1979  
Vice President, Montgomery County Council Date

Approved:

Charles W. G. S. October 11, 1979  
County Executive Date

ATTEST:

Anna P. Spates Oct 12, 1979  
Secretary of the County Council Date

Introduced: March 10, 1981  
Enacted: May 15, 1981  
Executive: May 15, 1981  
Effective May 15, 1981

COUNTY COUNCIL  
FOR MONTGOMERY COUNTY, MARYLAND  
March Legislative Session 1981  
Chapter 45

AN EMERGENCY ACT to amend Section 33-74, title "Cost-of-living adjustment" of Article IV, title "Employer-Employee Relations" of Chapter 33, title "Personnel" of the Montgomery County Code 1972, as amended, to add a new subsection (b) authorizing the Chief Administrative Officer for FY-82 to provide for cost-of-living increases of certain merit system employees at less than seventy-five (75) percent of the consumer price index.

Be It Enacted by the County Council for Montgomery County, Maryland, that -

Sec. 1. Section 33-74, title "Cost-of-living adjustment" of Article IV, title "Employer-Employee Relations" of Chapter 33, title "Personnel" of the Montgomery County Code 1972, as amended is hereby repealed and reenacted with amendments to read as follows:

33-74. Cost-of-living adjustment.

(a) The county executive shall provide as a part of the annual recommended operating budget for the county government sufficient funds to implement the cost-of-living adjustment required by this section. The council shall accord one of the highest priorities to the full funding of the cost-of-living adjustment, shall fund fully the seventy-five (75) percent of Consumer Price Index cost-of-living adjustment unless reasons are given for not doing so, and shall make a finding in the budget resolution as to the extent to which full funding is achieved. Unless otherwise provided in the approved budget resolution which includes a finding that implementation of the full amount of the adjustment would necessitate substantial lay-offs of personnel or result in other widespread hardship to county government employees, the chief administrative officer shall adjust the uniform salary plan for all classified employees of the county government beginning the first pay period on or after July 1 of each year by an amount not less than seventy-five (75) percent of the change in the Consumer Price Index for all urban consumers in the Washington, D.C. area, although pay grades one through four of the uniform salary plan to which minimum wage and certain seasonal employees are assigned will

be adjusted by changes in the minimum wage rates and salary surveys to determine the competitiveness of such salaries. The percentage change shall be based on the latest published index for the calendar year preceding the fiscal year in which the adjustment is to be paid.

The chief administrative officer may adjust the uniform salary plan in excess of the base percentage of seventy-five (75) percent, provided funds are available and approved by the county council for such purpose.

(b) Notwithstanding the provisions in (a) above, for FY-82 only the following salary controls shall apply:

1. Salary maxima of grades 5 through 31 will be adjusted by the full cost-of-living granted by the County Council.
2. The salary maximum for grade 40 shall be \$70,000.00.
3. The salary maxima for grades 32 through 39 shall be adjusted by the Chief Administrative Officer so that the dollar difference between the salary maxima of grades 31 through 40 is the same.
4. The salary for each merit employee in grades 5-31 will be adjusted by the full cost-of-living granted by the County Council to the extent that such salary adjustment does not exceed the maximum of the employee's grade.
5. The salaries for merit employees in grades 32 through 39 will be adjusted by the full cost-of-living granted by the County Council only to the extent that such salary adjustment does not exceed the maximum of the employee's grade.
6. The cost-of-living adjustment to the salaries of non-merit employees shall be determined by the County Executive but shall not exceed the cost-of-living granted merit employees.
7. No employee's salary is to be reduced below its level as of June 30, 1981 as a result of implementation of the provisions contained in paragraphs 1-6 above.

Sec. 2. Severability.

The provisions of this Act are severable and if any provision, sentence, clause, section word or part thereof is held illegal, invalid or unconstitutional

or inapplicable to any person or circumstances, such illegality, invalidity or unconstitutionality, or inapplicability shall not affect or impair any of the remaining provisions, sentences, clauses, sections, words or parts of the Act or their application to other persons or circumstances. It is hereby declared to be the legislative intent that this Act would have been adopted if such illegal, invalid or unconstitutional provisions, sentence, clause, section, word or part had not been included therein, and if the person or circumstances to which the Act or any part thereof is inapplicable had been specifically exempted therefrom.

### Sec. 3. Termination.

The provisions of this law shall remain effective only for FY-82 and shall be of no effect after June 30, 1982. Upon termination, Section 33-74 as it existed immediately prior to the effective date of this law, shall be reinstated.

### Sec. 4. Effective Date.

The County Council hereby declares that an emergency exists and that this legislation is necessary for the immediate protection of the public health, safety and welfare. Therefore, this Act shall take effect on the date on which it becomes law.

Approved:

Ruth Spector  
President, Montgomery County Council

May 15, 1981  
Date

Approved:

Charles W. Glick  
County Executive

May 15, 1981  
Date

ATTEST:

Annal Spates  
Secretary of the County Council

May 15, 1981  
Date



This page is  
intentionally blank.

Introduced: April 21, 1981  
Enacted: December 1, 1981  
Executive: December 10, 1981  
Effective: December 10, 1981

COUNTY COUNCIL  
FOR MONTGOMERY COUNTY, MARYLAND  
April Legislative Session 1981

Chapter 40  
Laws of Montgomery County 1982

AN EMERGENCY ACT to amend Chapter 2, title "Administration", Chapter 11B, title "Contracts, Procurement Matters and Public Ethics"; Chapter 21, title "Fire and rescue services"; Chapter 27, title "Human relations and civil liberties", and Chapter 33, title "Personnel" of the Montgomery County Code 1972, as amended, by amending Section 2-64I of Division 15, title "Office of personnel" of Chapter 2; Section 11B-67, title "Confidentiality; penalty provisions" of Chapter 11B; Section 21-4M, title "Personnel administration - For career employees of corporations"; of Chapter 21; Section 27-21, title "Procedure for complaints against county" of Chapter 27; and Section 33-1, title "County personnel board . . .", Section 33-3, title "Continuation and administration of merit system", Section 33-4, title "Salaries of chairman and members of personnel board", Section 33-5, title "Statement of legislative intent . . .", Section 33-6, title "Definitions", Section 33-7, title "Personnel board responsibilities", Section 33-8, title "Administrative responsibilities of chief administrative officer", Section 33-9, title "Equal employment opportunity and affirmative action", Section 33-10, title "Disclosure of illegal or improper actions in county government . . .", Section 33-12, title "Appeals of disciplinary actions . . .", Section 33-13, title "Appeal procedures", Section 33-14, title "Hearing authority of personnel board", Section 33-15, title "Judicial review and enforcement", Section 33-35, title "Definitions", Section 33-48, title

"Disability retirement hearing board", Section 33-51, title "Reports and audits", Section 33-56, title "Interpretations", Section 33-63, title "Definitions", and Section 33-71, title "Disputes", of Chapter 33; for the purpose of implementing recently approved amendments to Sections 402, 403 and 404 of the Montgomery County Charter which, among other things, change the name of the Personnel Board to the Merit System Protection Board, transfer authority to promulgate personnel regulations from the Board to the County Executive, provide for the assignment of certain matters to a hearing examiner, and require the Board to comment on proposed changes in the merit system law or regulations; establishing certain procedures and penalties; providing for the filing of certain complaints and appeals; permitting the Chief Administrative Officer to render certain decisions; specifying the manner for promulgation of Personnel Regulations; and relating generally to personnel.

Be It Enacted by the County Council for Montgomery County, Maryland, that -

Sec. 1. Section 2-64I of Chapter 2 of the Montgomery County Code 1972, as amended, be and hereby is amended to read as follows:

2-64I. Generally.

There is hereby established as a principal office of the Executive Branch an Office of Personnel under the immediate direction of a Director who shall be appointed by the County Executive subject to confirmation by the County Council. The Personnel Office shall have the following functions:

\* \* \*

(b) Assist all appointing authorities in the implementation of merit system Charter provisions and the Personnel Regulations of the County Executive.

\* \* \*

Sec. 2. Section 11B-67 of Chapter 11B, title "Contracts, Procurement Matters and Public Ethics" of the Montgomery County Code 1972, as amended, be and hereby is amended to read as follows:

11B-67. Confidentiality; penalty provisions.

(a) All confidential reports submitted under this Chapter shall be held strictly confidential except that:

(1) Said reports may be released at any time to federal, State or County law enforcement officials in connection with any duly authorized investigation.

(2) Said report may be released at any time to County personnel officers or the Merit System Protection Board in connection with any proceedings conducted pursuant to the County Personnel Regulations. However, nothing contained hereinabove shall permit the federal, State, or County law enforcement officials, County personnel officials, or the Merit System Protection Board to disclose publicly information in the report which they obtain unless the disclosure is made during the course of a grand jury investigation, trial or administrative hearing conducted by the Merit System Protection Board.

\* \* \*

Sec. 3. Section 21-4M of Chapter 21, title "Fire and Rescue Services", of the Montgomery County Code 1972, as amended, be and hereby is amended to read as follows:

21-4M. Personnel Administration - For Career Employees of Corporations.

(a) Personnel services. The Commission shall arrange with the County to provide as a service to local corporations the following services:

\* \* \*

(5) Use of the Merit System Protection Board.

\* \* \*

(c) Processing personnel transactions. The review required by subsection (a)(4) of this Section shall be performed within fourteen days after receipt of notice of the personnel transaction to be reviewed. The Commission shall be responsible for correcting inconsistent personnel actions. Any dispute arising out of this review process shall be resolved by the Merit System Protection Board as a service to the Commission and the local corporations under procedures established by the Board. Within six months after the assignment of its initial staff, the Commission, with the advice of the Personnel Director, shall:

(1) Establish procedures by which data shall be provided by the local corporations; and

(2) Designate such data as required to carry out the review of personnel transactions.

(d) Procedures concerning disclosure of illegal and improper actions and protection from retaliatory action.

\* \* \*

(2) In the event the Commission fails to adopt the procedures required by subsection (d)(1) of this Section, the provisions of Section 33-10 of the Merit System Law, enacted as Chapter 24, Laws of Montgomery County, 1979, and any regulations adopted to implement these provisions shall be deemed to apply to the local corporations and its employees paid with tax funds.

(e) Grievances. For purposes of the grievance procedures, the head of the local corporation shall be accorded the same status as a department head of the County government.

(f) Disciplinary appeals. Any career employee who is removed, demoted or suspended may, as a matter of right, appeal directly to the Merit System Protection Board in accordance with law and with procedures established by the Board. The decision of the Merit System Protection Board shall be final and binding, and shall not be subject to review except by a court of competent jurisdiction upon appeal taken within thirty days. The decision of the Merit System Protection Board, or if appealed, the decree of the court, shall be enforceable by the Commission and by the Chief Administrative Officer.

\* \* \*

(h) Annual review. The Merit System Protection Board shall annually review all personnel-related actions of the Commission and local corporations to insure reasonable uniformity.

\* \* \*

Sec. 4. Section 27-21 of Chapter 27, title "Human Relations and Civil Liberties", of the Montgomery County Code 1972, as amended, be and hereby is amended to read as follows:

27-21. Procedures for Complaints Against County.

(a) In any case in which the County or any of its instrumentalities or agencies is alleged to be in violation of any of the provisions of this Division, a complaint may be filed with the Commission as hereafter provided or, at the sole discretion of the aggrieved party, directly with a court of competent jurisdiction. Any merit system employee who elects to file a complaint under this Section shall not be entitled to a duplicative merit system grievance review and shall be, therefore, deemed to have waived the right to have the same matter reviewed by the Merit System Protection Board as may be otherwise provided by law or regulation.

\* \* \*

Sec. 5. Chapter 33, title "Personnel", of the Montgomery County Code 1972, as amended, be and hereby is amended to read as follows, and existing Sections 33-5(b)(6), (7) and (8) are renumbered (7), (8) and (9) respectively:

PERSONNEL

Article 1. In General.

33-1. Merit System Protection Board to Have All Powers and Duties of Police Civil Service Commissioner and Police Trial Board.

The Office of the Police Civil Service Commissioner and the Police Trial Board are hereby abolished and all references in the Code of Public Local Laws of Montgomery County (1947 Edition) to the Office of the Police Civil Service Commissioner or the Police Trial Board shall henceforth be construed so as to refer to the Merit System Protection Board, and the Board shall henceforth have all the powers and duties of the Police Civil Service Commissioner and the Police Trial Board, insofar as such powers and duties are prescribed in such Code of Public Local Laws and are consistent with the Montgomery County Charter and public general laws.

\* \* \*

33-3. Continuation and Administration of Merit System.

\* \* \*

(b) The merit system shall be administered by the Chief Administrative Officer, under the direction of the County Executive, and shall be governed by

and subject to the provisions of the Charter for Montgomery County, Maryland, 1978, as amended, provisions of this Chapter, and the Personnel Regulations adopted by the County Executive and approved by the County Council.

33-4. Salaries of Chairman and Members of Merit System Protection Board.

For members of the Merit System Protection Board appointed after December 31, 1979, the annual salary of the Chairman of the Merit System Protection Board shall be six thousand eight hundred dollars, adjusted as provided for below. The annual salary of the other two members of the Merit System Protection Board shall be six thousand dollars adjusted as provided for below. The members of the Merit System Protection Board and the Chairman shall be paid as indicated above for the first ten months this law is in effect. Thereafter, these salaries shall be changed, beginning on the first Monday in December of each year, by a percentage which is fifty percent of the percentage which the Consumer Price Index for All Urban Consumers for the Washington Metropolitan Area for the previous September shall have changed from the September of the previous year.

\* \* \*

33-5. Statement of Legislative Intent; Merit System Principles; Statement of Purpose; Merit System Review Commission; Applicability of Article.

\* \* \*

(b) Merit System Principles.

\* \* \*

(6) All applicants to and employees of the County merit system shall be assured fair treatment without regard to political affiliation or other non-merit factors in all aspects of personnel administration.

\* \* \*

(c) Statement of Purpose.

The basic purpose of this Article is to delineate the respective responsibilities of the County Executive, the Chief Administrative Officer and the Merit System Protection Board for personnel management in County government. It is the further purpose of this Article to implement by law the County Charter responsibilities of the County Council with respect to a

merit system generally, including provisions for salaries and wages of all classified employees of the merit system under a uniform salary plan, the Merit System Protection Board's authority to exercise its appellate functions, and promotion of the overall objective that the integrity of the County merit system be preserved and that it be administered fairly and efficiently in the best interests of the County and its employees.

\* \* \*

33-6. Definitions.

For the purposes of this Article, the following words and phrases shall have the meaning respectively ascribed to them by this Section:

Board. The Merit System Protection Board as described in Section 403 of the County Charter.

\* \* \*

33-7. County Executive and Merit System Protection Board Responsibilities.

(a) Generally. In performing its functions, the board is expected to protect the merit system and to protect employee and applicant rights guaranteed under the merit system, including protection against arbitrary and capricious recruitment and supervisory actions, support for recruitment and supervisory actions demonstrated by the facts to be proper, and to approach these matters without any bias or predilection to either supervisors or subordinates. The remedial and enforcement powers of the Board granted herein shall be fully exercised by the Board as needed to rectify personnel actions found to be improper. The Board shall comment on any proposed changes in the merit system law or regulations, at or before the public hearing thereon. The Board, subject to the appropriation process, shall be responsible for establishing its staffing requirements necessary to properly implement its duties and to define the duties of such staff.

(b) Personnel Regulations. The County Executive, after a public hearing, shall adopt or amend Personnel Regulations, subject to County Council approval. The Regulations shall be deemed approved 45 days following receipt by the Council if by that time the Council has not acted upon the Regulations in some manner, including a resolution to extend, for not more than 30 days, the time for its



consideration. Personnel Regulations shall be effective on the first day following approval. Promptly following approval, the County Executive shall cause to be published once in one newspaper of general circulation published in the County a brief summary of the regulation so adopted, together with a statement of its effective date and of the place where a copy thereof may be promptly obtained. The requirement of public hearing, County Council approval and publication shall not apply to regulations adopted upon declaration of an emergency, unless the substance of the regulations had been the subject of previous emergency regulations. A summary of emergency regulations shall be published promptly after adoption and in the same manner described above. Emergency regulations shall cease to be effective and shall be of no further force or effect on or after the 61st day following their adoption.

The Personnel Regulations shall provide the framework for:

- (1) The classification of all merit system positions in the Executive and Legislative Branches;
  - (2) Minimum qualifications for merit system positions, methods of determining qualifications and methods of selection for any positions;
  - (3) Probationary periods, promotions, transfers;
  - (4) Causes for removal from any merit system position and methods of removal, including demotions, furloughs and reduction of staff;
  - (5) Annual, sick and other leave;
  - (6) Prohibitions against political activity;
  - (7) Maintenance of personnel records; and
  - (8) Similar personnel matters as may be provided by law.
- (c) Classification standards. With respect to classification matters, the County Executive shall provide by Personnel Regulation, adopted in the manner specified above, standards for establishing and maintaining a classification plan. These standards may include but are not limited to the following:
- (1) The necessary components of class specifications;
  - (2) Criteria for the establishment of new classes, modification or elimination of existing classes;
  - (3) Criteria for the assignment of positions to classes;

- (4) Kinds of data required to substantiate allocation of positions;
- (5) Guidelines for comparing levels of job difficulty and complexity;

and,

- (6) Criteria for the establishment or abolishment of positions.

The Board shall conduct or authorize periodic audits of classification assignments made by the Chief Administrative Officer and of the general structure and internal consistency of the classification plan, and shall submit audit findings and recommendations to the County Executive and County Council.

(d) Personnel Regulation Review. The Merit System Protection Board shall meet and confer with the Chief Administrative Officer and employees and their organizations from time to time to review the need to amend these Regulations.

(e) Adjudication. The Board shall hear and decide disciplinary appeals or grievances upon the request of a merit system employee who has been removed, demoted or suspended and in such other cases as required herein.

(f) Retirement. The Board may from time to time prepare and recommend to the Council modifications to the County's system of retirement pay.

(g) Personnel Management Oversight. The Board shall review and study the administration of the County classification and retirement plans and other aspects of the merit system and transmit to the Chief Administrative Officer, County Executive and the County Council its findings and recommendations. The Board shall conduct such special studies and audits on any matter relating to personnel as may be periodically requested by the County Council. All County agencies, departments and offices and County employees and organizations thereof shall cooperate with the Board and have adequate notice and an opportunity to participate in any such review initiated under this Section.

(h) Publication. Consistent with the requirements of the Freedom of Information Act, confidentiality and other provisions of law, the Board shall publish, at least annually, abstracts of its decisions, rulings, opinions and interpretations, and maintain a permanent record of its decisions.

(i) Public Forum. The Board shall convene at least annually a public forum on personnel management in the County government to examine the implementation of Charter requirements and the merit system law.

33-8. Administrative Responsibilities of the Chief Administrative Officer.

(a) The Chief Administrative Officer shall be responsible for the administration and enforcement of the merit system, including any retirement laws, labor relations laws and the Personnel Regulations. The Chief Administrative Officer may designate a representative to implement any or all of the provisions of law or the Personnel Regulations. The Chief Administrative Officer and all department heads are responsible for implementing all final decisions of the Merit System Protection Board made after grievance appeals, although the Chief Administrative Officer shall have the right to appeal any such decision in accordance with procedures recited elsewhere in this Article. The Chief Administrative Officer shall insure that all supervisors receive continual orientation and training about the intent, purpose and principles of the merit system and shall insure that all supervisors implement the objectives of this Article.

(b) The Chief Administrative Officer shall formulate administrative procedures to implement requirements of the merit system law and Personnel Regulations after providing reasonable public notice and opportunity for comment. These administrative procedures shall be distributed in a manner to make them accessible to all employees.

33-9. Equal Employment Opportunity and Affirmative Action.

(a) Policy. The County's policy shall be to take all personnel actions on the basis of merit and fitness without regard to political affiliation or non-merit factors, and without regard to other factors as may be provided for in Chapter 27 "Human Relations and Civil Liberties" such as sex, marital status, race, religion, national origin, age or handicap. The Chief Administrative Officer shall be responsible for initiating, developing and maintaining such an equal employment opportunity and affirmative action program as necessary to insure all persons an equal opportunity to enter and progress in the County's service on the basis of open competition and demonstrated ability. The County Executive is authorized to issue such rules and regulations as necessary to implement this policy. Such regulations shall provide that an employee whose personal religious beliefs require the abstention from work during certain periods of time may elect to engage in an alternate work schedule in

order to meet those religious requirements. The regulation shall include provision for any employee who elects to work an alternate schedule to be obligated to work an equal period of time to that taken off for such religious reasons.

(b) Conciliation. The Chief Administrative Officer is authorized to engage in consultation and conciliation efforts with agencies responsible for enforcement of equal employment opportunity laws with the objective of resolving complaints and to execute binding agreements with these agencies; provided, however, that these conciliation efforts shall not be deemed to abate the procedures or requirements as recited in Chapter 27. Should the complaint be determined to be a matter not properly within the jurisdiction of an equal employment opportunity enforcement agency, the complaint, as filed, shall be treated as a grievance and processed under the appropriate procedures established for grievances.

(c) Appeals by applicants. Any applicant for employment or promotion to a merit system position may appeal decisions of the Chief Administrative Officer with respect to their application for appointment or promotion. Appeals alleging discrimination prohibited by Chapter 27, "Human Relations and Civil Liberties", of the Code, may be filed in the manner prescribed therein. Appeals alleging that the decisions of the Chief Administrative Officer were arbitrary and capricious, illegal, based on political affiliation, failure to follow announced examination and scoring procedures, or non-merit factors, may be filed directly with the Merit System Protection Board. Appeals filed with the Merit System Protection Board shall be considered pursuant to procedures adopted by the Board. The Board may order such relief as is provided by law or regulation.

33-10. Disclosure of Illegal or Improper Actions in County Government; Protection for Merit System Employees Against Retaliation or Coercion for Disclosing Illegal or Improper Actions in County Government; Prohibited Practices; Complaint Procedures; Investigations; Penalties; Appeals.

(a) Disclosure of Illegal or Improper Actions.

(1) Employees are authorized and expected to report instances of illegal or improper actions in County government.

(2) Employees should first report such matters to the individual responsible for corrective action. Such person may be anyone from the employee's

immediate supervisor up to and including the County Executive, or in the case of Legislative Branch employees, the County Council.

(3) In unusual circumstances, or if a retaliatory action or coercion has taken place, the employee may file a report directly with either the Board or the Ethics Commission. The identity of both the employee filing a report and the County employee or official who is the subject of this report shall be kept confidential unless waived in writing by the parties. The Board or Ethics Commission shall cause an inquiry to be conducted or refer the report to the appropriate government official or agency.

\*

\*

\*

(b) Protection for Employees. Any merit system employee who refuses to obey an instruction involving an illegal or improper action or who discloses information concerning illegal or improper action in County government with a reasonable good-faith belief that such disclosures are true and accurate shall be protected under procedures authorized herein from any retaliatory or coercive personnel action. This provision does not extend protection to a merit system employee upon a determination that:

(1) The employee's actions were frivolous, unreasonable and without foundation, even though not brought in bad faith;

(2) The employee without good cause failed to comply with administrative regulations concerning the making of such disclosures; or

(3) The employee was the subject of otherwise proper personnel actions taken for disciplinary reasons and not for retaliatory purposes prohibited by this Section.

A personnel action shall mean any administrative act or omission which has a significant adverse impact upon the employee, or a change in the employee's duties or responsibilities inconsistent with the employee's grade and salary.

(c) Prohibited Practices. It shall be unlawful for any person to coerce any merit system employee into taking an illegal or improper action or take any retaliatory action against any merit system employee because of that employee's disclosure of information relating to illegal and improper action in County government.

(d) Filing of Complaints. If an employee believes a retaliatory action or coercion has taken place or been attempted because of his refusal to obey an illegal or improper instruction or disclosure of same, the employee may file a written complaint with the Board. The complaint must be filed within 60 days of the alleged violation or action and must contain:

- (1) The employee's name and signature;
- (2) The employee's home address and telephone number;
- (3) The name of the individual who allegedly took the action;
- (4) A concise description of the alleged coercion or retaliatory action and reasons for believing it to be so. The identity of all parties shall be kept confidential unless, and until there is a finding of probable cause or all parties waive such confidentiality in writing.

The Board may initiate an inquiry of any person suspected of taking retaliatory or coercive action, with or without a written complaint from an employee.

(e) Investigations. All complaints charging a violation of subsection (c) shall be promptly investigated by the Board's staff who shall determine whether probable cause exists to believe a violation of that Section has occurred. Should the Board's staff determine that the subject matter of the complaint involved allegations more properly the subject of an employee grievance or complaint to be filed under the provisions of the Personnel Regulations or other laws or regulations, the complainant shall be so advised and the complaint dismissed, and the period of limitations for the bringing of such other action shall be deemed to run from the date of the dismissal. Should the Board's staff determine that no probable cause exists, that determination shall be final and the complaint dismissed unless Board reconsideration is requested. Should the Board's staff determine that probable cause does exist, the staff shall prepare and cause to be served on the person believed to have violated subsection (c) a statement of charges fairly describing the alleged violation and the sanctions sought to be imposed for such violation. The charges shall then be certified to the Board to schedule and conduct hearings in accordance with the provisions of this Chapter. The case in support of charges shall be presented by the Board's staff.

(f) Penalties. If a County employee is found guilty of coercion, harassment or retaliation, the Merit System Protection Board may order the imposition of one or more of the following penalties:

- (1) Any disciplinary action provided for in the Personnel Regulations up to and including dismissal;
- (2) A monetary fine in any amount up to \$2,000.00;
- (3) Reimbursement of expenses incurred by all parties;
- (4) Other penalties as may be deemed appropriate and consistent with the Charter and laws of Montgomery County, Maryland.

(g) Appeals. An employee subject to the foregoing penalties based on the Merit System Protection Board's findings and decision may appeal to a court of competent jurisdiction.

#### 33-12. Appeals of Disciplinary Actions; Grievance Procedures.

(a) Appeals of Certain Disciplinary Actions. Any merit system employee, excluding those in probationary status, who has been notified of impending removal, demotion or suspension shall be entitled to file an appeal to the Board which shall cause a hearing to be scheduled without undue delay unless the appeal has been settled during administrative review of the appeal by the Chief Administrative Officer or a designee. Any merit system employee who is the subject of other disciplinary action not specified above may file an appeal with the Board, but such appeal may or may not require a hearing as the Board may determine.

(b) Grievances. A grievance is a formal complaint arising out of a misunderstanding or disagreement between a merit system employee and supervisor with reference to a term or condition of employment. The determination of the Board as to what constitutes a term or condition of employment shall be final. Grievances do not include the following: classification allocations, except due process violations; failure to re-employ a probationary employee; or other employment matters for which another forum is available to provide relief or the Board determines are not suitable matters for the grievance resolution process. A grievance shall include termination by resignation which is found by the Board to have been submitted under circumstances which cause the

resignation to be involuntary; in the event of such a finding, the Board shall require the appointing authority to substantiate the termination as in the case of a removal. The County Executive shall prescribe in the Personnel Regulations procedures which seek to secure at the lowest possible level a fair, prompt and mutually satisfactory resolution to a grievance. In providing these procedures, the County Executive shall insure that any grievance based upon an alleged improper application of a merit system law or regulation concerning a disputed issue of fact is entitled to resolution after a fact-finding inquiry authorized by the Board. Grievances based upon an alleged improper interpretation of merit system laws or regulation do not require a hearing during the grievance resolution process.

(c) Hearing Examiners. The Board may utilize hearing examiners to conduct grievance investigations and other hearings, authorized under this Section, who shall make findings and recommendations subject to objection by the parties and final Board approval under such procedures as established by the Board. A party to any proceeding which has been assigned to a Hearing Examiner shall be afforded the opportunity to present an oral argument on the record before the Board prior to a final decision.

#### 33-13. Appeal Procedures.

The County Executive shall prescribe by Personnel Regulations procedures covering appeals including grievances which shall include the time limit for filing such appeal, the granting of administrative leave pending appeal, filing and cost of the administrative record, conduct of hearings, requirements for written notice, special evidentiary proceedings in cases where the remedy of employee reinstatement was a contested and unresolved issue in an ordinary appeal hearing and provisions for summary actions by the Board.

#### 33-14. Hearing authority of Board.

(a) Hearing Requirements. Hearings before the Board are quasi-judicial in nature and shall be conducted in formal session in accordance with the provisions and authority contained in the County Administrative Procedures Act.

\*

\*

\*



(c) Decisions. Final decisions by the Board shall be in writing, setting forth necessary findings of fact and conclusions of law.

\* \* \*

33-15. Judicial Review and Enforcement.

(a) Any aggrieved merit system employee, or applicant, or the Chief Administrative Officer, may obtain judicial review of a Merit System Protection Board order or decision from the Circuit Court for the County in the manner prescribed under Chapter 1100, Subtitle B of the Maryland Rules of Procedure.

\* \* \*

33-35. Definitions.

The following words and phrases, as used in this Article, shall have the following meanings:

\* \* \*

County Merit System Protection Board or Board. The Merit System Protection Board as defined in the Charter of Montgomery County, Maryland.

\* \* \*

33-48. Disability Retirement Hearing Board.

\* \* \*

(g) Appeals to the Merit System Protection Board. A member who disagrees with the Disability Retirement Hearing Board's decision shall have the right of appeal to the Merit System Protection Board within fifteen days of receipt of written notification of the decision. The Merit System Protection Board will review the appeal in accordance with the procedures outlined in the Personnel Regulations.

(h) Judicial Appeal. A final decision rendered by the Merit System Protection Board on an appeal may be appealed to any court of competent jurisdiction in accordance with the Maryland Rules of Procedure, Chapter 1100, Subtitle B.

\* \* \*

33-51. Reports and Audits.

(a) Annual Report. The Chief Administrative Officer shall submit to the County Council, County Executive and the Merit System Protection Board by the second week of February each year an annual report on the status of the retirement system for the preceding fiscal year. Copies of this report shall be available to all interested County officials, each member of the retirement system, and the public.

\* \* \*

33-56. Interpretations.

The Chief Administrative Officer shall have the responsibility for rendering decisions on questions arising under this Article. Any member of the County's retirement system and any retiree or designated beneficiary, eligible to receive benefits from the retirement system, may request, in writing, a decision on questions arising under this Article from the Chief Administrative Officer, who shall respond in writing to such request within 60 days. The response shall include a statement of appeal rights. Decisions by the Chief Administrative Officer may be appealed within 15 days to the Merit System Protection Board in accordance with procedures established by the Board. The decisions of the Board shall be final.

\* \* \*

33-63. Definitions.

\* \* \*

(c) Employee. Any County merit system employee working on a continuous full-time, career or part-time, career basis, eligible to be included in a unit of recognition except for the following:

\* \* \*

(11) Employees of the Merit System Protection Board;

\* \* \*

33-71. Disputes.

All decisions of the Chief Administrative Officer under the provisions of this Article shall be final, subject to appeal to the Merit System Protection Board where provided by law.

Sec. 6. Severability

The provisions of this Act are severable and if any provision, sentence, clause, section, word or part thereof is held illegal, invalid, unconstitutional or inapplicable to any person or circumstance, such illegality, invalidity, unconstitutionality, or inapplicability shall not affect or impair any of the remaining provisions, sentences, clauses, sections, words or parts of the Act or their application to other persons or circumstances. It is hereby declared to be the legislative intent that this Act would have been adopted if such illegal,

invalid, or unconstitutional provision, sentence, clause, section, word or part had not been included therein, and if the persons or circumstances to which the Act or part thereof is inapplicable had been specifically exempted therefrom.

Sec. 7. Effective Date.

The Council hereby declares that an emergency exists and that this legislation is necessary for the immediate protection of public health and safety. Therefore, this Act shall take effect on the date on which it becomes law.

Approved:

Neal Potter Dec 3, 1981  
President, Montgomery County Council Date

Approved:

Charles W. G. S. December 10, 1981  
County Executive Date

ATTEST:

Ana P. Spates December 10, 1981  
Secretary of the County Council Date

BILL NO. 71-81

Introduced: November 3, 1981  
Enacted: April 6, 1982  
Executive: April 16, 1982  
Effective: July 16, 1982

COUNTY COUNCIL

FOR MONTGOMERY COUNTY, MARYLAND

November Legislative Session 1981

Chapter 53

Laws of Montgomery County, 1982

AN ACT to amend Chapter 33, title "Personnel" of the Montgomery County Code, 1972, as amended, by amending Subsection 33-63(c) of Section 33-63, title "Definitions", of Article IV, title "Employer-Employee Relations" to provide that Police Department employees who are represented by a certified employee organization pursuant to Article V of this Chapter shall not be considered an employee under Article IV of this Chapter; by amending Section 33-74, title "Cost of Living Adjustment" to provide that this Section shall not apply to an employee of the Police Department who is represented by a certified employee organization pursuant to Article V of this Chapter; and by adding a new Article V, title "Police Labor Relations", Sections 33-75 through 33-85, to provide for a policy statement, definitions to be used in the Article, creation of a permanent umpire in order to administer and implement certain provisions of the Article, certain employee rights, the selection, certification, and decertification procedures, subjects which would be appropriate for collective bargaining, subjects which would not be appropriate for collective bargaining, impasse procedures, prohibited employer and employee practices, certain provisions concerning strikes and lockouts, expression of views and the effect of prior enactments.

Be It Enacted By The County Council for Montgomery County, Maryland, that -

Sec. 1. Subsection 33-63(c) of Section 33-63, title "Definitions" of Article IV, title "Employer-Employee Relations", of Chapter 33, title "Personnel", of the Montgomery County Code 1972, as amended, is hereby amended to read as follows:

33-63. Definitions.

\* \* \*

(c) Employee. Any County Merit System employee working on a continuous full-time, career or part-time, career basis, eligible to be included in a unit of recognition except for the following:

- (1) Confidential aides to elected officials;
- (2) All non-Merit System employees;
- (3) All heads of principal departments, offices and agencies;
- (4) Deputy or assistant department heads;
- (5) Employees providing direct staff or administrative support to the director of the department, or deputy or assistant directors within the director's immediate office;
- (6) Employees who report directly to or whose immediate supervisor is the County Executive, County Council, County Council members or the Chief Administrative Officer and the principal aides to the foregoing;
- (7) Employees of the Office of the County Attorney;
- (8) Employees of the Office of Management and Budget;
- (9) Employees of the Office of Employee Relations;
- (10) Employees of the Personnel Office;
- (11) Employees of the Merit System Protection Board;
- (12) Heads of the following constituent offices, divisions and sections in the Department of Transportation existing at the time of enactment of this bill and positions carrying a similar degree of personnel management responsibilities in other departments and offices as determined by the Chief Administrative Officer:

Director's Office, Office of Right-of-Way Acquisition, Office of Administrative Services, Office of Transportation Planning, Division of Transportation Engineering, Subdivision Development Section, Design Section, Construction Section, Division of Traffic Engineering, Traffic Planning and Survey Section, Traffic Operations Section, Division of

Operations, TESS Minibus, Highway Maintenance Section, Equipment Section and Division of Parking Lot Districts.

(13) An employee of the Police Department, as defined in Section 33-76 of this Chapter, who is represented by a certified employee organization pursuant to the provisions of Article V, title "Police Labor Relations" of this Chapter.

Sec. 2. Section 33-74, title "Cost of Living Adjustment", of Article IV, title "Employer-Employee Relations", of Chapter 33, title "Personnel" of the Montgomery County Code 1972, as amended, is hereby amended by adding a new Subsection (c) to read as follows:

33-74. Cost of Living Adjustment.

\* \* \*

(c) The provisions of this Section shall not apply to an employee of the Police Department, as defined in Section 33-76 of this Chapter, who is represented by a certified employee organization pursuant to the provisions of Article V, title "Police Labor Relations" of this Chapter.

Sec. 3. Chapter 33, title "Personnel" of the Montgomery County Code 1972, as amended, is hereby amended by adding a new Article V, title "Police Labor Relations", Sections 33-75 through 33-85, to read as follows:

#### ARTICLE V. POLICE LABOR RELATIONS.

33-75. Declaration of Policy.

It is the public policy of this County, pursuant to Charter Section 510, enacted as a result of citizen initiative, and purpose of this Article to promote a harmonious, peaceful, and cooperative relationship between the County government and its police employees and to protect the public by assuring, at all times, the responsive, orderly, and efficient operation of the Police Department. Since unresolved disputes in the police service are injurious to the public and to police employees as well, adequate means should be provided for preventing such unresolved disputes and for resolving them when they occur. To that end, it is in the public interest that police employees have the opportunity to bargain collectively over wages, hours, and other terms and conditions of employment through a representative of their choice or to refrain therefrom; and that any collective bargaining between the County government and a representative of those police employees be done in

good faith with no interference with the orderly process of government and furthermore, that agreements reached through collective bargaining be implemented.

It is also recognized, however, that police employee organizations and the County government each possess substantial means by which they may initiate actions regarding the wages, hours, and working conditions of employees. Consequently, in order to preserve an appropriate balance between labor and management in the police service, the Council hereby declares that once a representative has been voluntarily selected, collective bargaining shall be utilized in place of, but not in addition to, existing means of initiating governmental action as to those subjects which are defined as appropriate for collective bargaining in this Article.

### 33-76. Definitions.

When used in this Article:

"Agency shop" means a provision in a collective bargaining agreement requiring, as a condition of continued employment, that bargaining unit employees pay a service fee not to exceed the monthly membership dues uniformly and regularly required by the employee organization of all of its members. An agency shop agreement shall not require the payment of initiation fees, an assessment, fines or any other collections or their equivalent, as a condition of continued employment.

To "bargain collectively" means to meet at reasonable times and places and to negotiate in good faith with respect to appropriate subjects as set out in subsection 33-80(a) of this Article.

"Certified representative" means an employee organization selected in accordance with the procedures of this Chapter to represent the unit.

"Employee" means any police officer in the classification of Master Police Officer I, Master Police Officer II, Police Officer I, Police Officer II, Police Officer III, and Police Officer Candidate, or equivalent non-supervisory classifications, but not those in the classification of Police Sergeant or any equivalent or higher classification.

"Employer" means the County Executive and his designees.

"Employee organization" means any organization which admits to membership employees and which has as a primary purpose the representation of

such employees in collective bargaining, and includes any person acting as an officer, representative, or agent of said organization. Such organization shall not admit to membership any person other than law enforcement officers.

"Lockout" means any action taken by the employer to interrupt or prevent the continuity of work properly and usually performed by the employee for the purpose and with the intent of either coercing the employees into relinquishing rights guaranteed by this Article or of bringing economic pressure on employees for the purpose of securing the agreement of their certified representative to certain collective bargaining terms.

"Mediation" means an effort by an impartial third party confidentially to assist in resolving, through interpretation, suggestion, and advice, a dispute arising out of collective bargaining between the employer and the certified representative.

"Strike" means a concerted failure to report for duty, absence, stoppage of work, or abstinence in whole or in part from the full and faithful performance of the duties of employment with the employer, or deviation from normal or proper work duties or activities, where any of the preceding are done in a concerted manner for the purpose of inducing, influencing, or coercing the employer in the determination, implementation, interpretation, or administration of terms or conditions of employment or of the rights, privileges, or obligations of employment or of the status, recognition or authority of the employee or an employee organization.

"Unit" means all employees.

#### 33-77. Permanent Umpire.

(a) There is hereby created the position of Permanent Umpire, so as to provide for the effective implementation and administration of Sections 33-79 and 33-82 of this Article concerning selection, certification and decertification procedures and prohibited practices. The Permanent Umpire shall exercise the following powers and perform the following duties and functions:

(1) Adopt, amend and rescind, from time to time, such rules, regulations and procedures for the implementation and administration of Sections 33-79 and 33-82 as are consistent with this Article;



(2) Request from the employer or any employee organization, and the employer or such organization may at its discretion provide, such relevant assistance, service and data as will enable the Permanent Umpire to properly carry out his functions;

(3) Hold hearings and make inquiries, administer oaths and affirmations, examine witnesses and documents, take testimony and receive evidence, compel by issuance of subpoenas the attendance of witnesses and the production of relevant documents;

(4) Hold and conduct elections for certification or decertification pursuant to the provisions of this Article and issue said certification or decertification;

(5) Investigate and attempt to resolve or settle, as provided in this Article, charges of engaging in prohibited practices. However, if the employer and a certified representative have negotiated a valid grievance procedure, the Permanent Umpire must defer to that procedure for the resolution of disputes properly submissible to the procedure absent a showing that such deferral will result or has resulted in the application of principles repugnant to this Article. Furthermore, the Permanent Umpire shall defer to State procedures in those matters which are governed by the Law Enforcement Officers Bill of Rights, Article 27, Sections 727, et seq., Annotated Code of Maryland;

(6) Obtain any necessary support services and make necessary expenditures in the performance of duties to the extent provided for these purposes in the annual budget of Montgomery County; and,

(7) Exercise any other powers and perform any other duties and functions as may be specified in Sections 33-79 and 33-82 of this Article.

(b) The Permanent Umpire shall be appointed by the County Executive, with the confirmation of the County Council, shall serve for a term of five (5) years and shall be eligible for reappointment; provided, however, that the Permanent Umpire shall not be reappointed if, during the period between 60 days and 30 days prior to the expiration of his term, the certified representative files a written objection to such reappointment with the County Executive. The Permanent Umpire shall be a person with experience as a neutral in the field of labor relations and shall not be a person who, on

account of vocation, employment or affiliation can be classed as a representative of the interests of the employer or any employee organization.

(c) The Permanent Umpire shall be paid a per diem fee as set forth by contract with the County and shall be reimbursed for necessary expenses.

33-78. Employee Rights.

(a) Employees shall have the right:

(1) To form, join, support, contribute to, or participate in, or to refrain from forming, joining, supporting, contributing to, or participating in, any employee organization or its lawful activities; and

(2) To be fairly represented by their certified representative, if any.

(b) The employer shall have the duty to extend to the certified representative the exclusive right to represent the employees for the purposes of collective bargaining, including the orderly processing and settlement of grievances as agreed by the parties.

(c) A certified representative shall serve as the bargaining agent for all employees and shall have the duty to represent fairly and without discrimination all employees without regard to whether the employees are or are not members of the employee organization or are paying dues or other contributions to it or participating in its affairs; provided, however, that it shall not be deemed a violation of this duty for a certified representative to seek enforcement of an agency shop provision in a valid collective bargaining agreement.

(d) The right of the certified representative to receive membership dues deductions or agency shop provisions shall be determined through negotiations, unless the authority to negotiate such provisions has been suspended under Section 33-84. No collective bargaining agreement may include a provision requiring membership in, participation in the affairs of, or contributions to an employee organization other than an agency shop provision.

33-79. Selection, Certification and Decertification Procedures.

(a) The certification or decertification of an employee organization as the unit's representative for the purpose of collective bargaining shall be initiated in accordance with the following procedures:

(1) Any employee organization seeking certification as representative of the unit shall file a petition stating its name, address, and its desire to be certified with the Permanent Umpire, and shall transmit forthwith a copy of such, not including the names of the supporting employees, to the employer. Said petition must contain the uncoerced signatures of thirty percent (30%) of the employees within the unit signifying their desire to be represented by the employee organization for purposes of collective bargaining.

(2) Where an employee organization has been certified, an employee within the unit may file a petition with the Permanent Umpire and shall transmit forthwith a copy of such to the employer and the certified representative, not including the names of the supporting employee for decertification of the certified representative. The petition must contain the uncoerced signatures of at least thirty percent (30%) of the employees within the unit alleging that the employee organization presently certified is no longer the choice of the majority of the employees in the unit.

(3) The employer may file a petition with the Permanent Umpire seeking an election for certification of an employee organization or, where an employee organization is so certified, to cause decertification of the representative where the employer has reason to believe that the certified representative is not or is no longer the choice of the majority of the employees of the unit, and shall transmit a copy of such to the employee organization seeking to obtain or retain certification.

(4) Petitions may be filed between May 1, 1982, and June 30, 1982. Thereafter, petitions may be filed between September 1 and September 30 of any year, but no sooner than 22 months following an election held pursuant to this Section.

(5) If a lawful collective bargaining agreement is in effect, no petition shall be entertained unless filed during September of the final year of the agreement.

(6) If, during the period of May 1 to June 30, 1982, a petition is filed by the incumbent representative of unit employees certified under the Employer-Employee Relations Article of this Chapter, and no other employee organization files a valid petition, that incumbent certified representative

shall be certified without an election, provided it produces evidence, acceptable to the Permanent Umpire, of majority representation.

(b) If the Permanent Umpire determines that a petition is properly supported and timely filed, the Permanent Umpire shall cause an election of all eligible employees to be held within a reasonable time, but no later than October 20 of that year, to determine if and by whom the employees wish to be represented, as follows:

(1) All elections shall be conducted under the supervision of the Permanent Umpire and shall be conducted by secret ballot at such time and place as the Permanent Umpire may direct. The Permanent Umpire may select and retain services of an agency of the State of Maryland, or similarly neutral body to assist in conducting the election.

(2) The election ballots shall contain, as choices to be made by the voter, the names of the petitioning or certified employee organization, the name or names of any other employee organization showing written proof at least ten (10) days before the election of at least ten percent (10%) representation of the employees within the unit, and a choice that the employee does not desire to be represented by any of the named employee organization(s).

(3) The employer and each party to the election may be represented by observers selected in accordance with such limitations and conditions as the Permanent Umpire may prescribe.

(4) Observers may challenge for good cause the eligibility of any person to vote in the election. Challenged ballots shall be impounded pending either agreement of the parties as to the validity of such challenge or the Permanent Umpire's decision thereon, unless the number of challenges is not determinative, in which latter event the challenged ballot(s) shall be destroyed.

(5) After the polls have been closed, the valid ballots cast shall be counted by the Permanent Umpire in the presence of the observers.

(6) The Permanent Umpire immediately shall prepare and serve upon the employer and each of the parties a report certifying the results of the election. If, and only if, an employee organization has received the votes of a majority of the employees who voted, the Permanent Umpire shall

certify the employee organization so elected as the exclusive agent. If no employee organization has received the votes of a majority of the employees, the Permanent Umpire shall certify no representative, but if a majority of the employees do not vote for no representation, a run-off election shall be conducted. The run-off election shall contain the two choices which received the largest and second largest number of votes in the original election.

(c) The aforesaid certification of results shall be final unless, within seven (7) days after service of the report and certification, the employer or any other party serves on all parties and files with the Permanent Umpire objections to the election. Objections shall be verified and shall contain a concise statement of facts constituting the grounds thereof. The Permanent Umpire shall investigate the objections and, if substantial factual issues exist, the Permanent Umpire shall hold a hearing thereon. Otherwise, the Permanent Umpire may determine the matter without hearing. The Permanent Umpire may invite, either by rule or by invitation, written or oral argument to assist in determination of the merits of the objections. If the Permanent Umpire finds that the election was conducted in substantial conformity with this Article, the Permanent Umpire shall confirm the certification initially issued. If the Permanent Umpire finds that the election was not held in substantial conformity with this Article, the Permanent Umpire shall cause another election to be held pursuant to the provisions of this Section.

(d) The cost of conducting an election shall be paid by the County.

(e) Voluntary recognition is prohibited under this Article, and no certification may be issued without an election except as provided for in subsection 33-79(a)(6).

#### 33-80. Collective Bargaining.

(a) Upon certification of an employee organization, as provided in Section 33-79, the employer and the said certified representative shall have the duty, through their designees, to bargain collectively with respect to those subjects as follows:

(1) Salary and wages, provided, however, that salaries and wages shall be uniform for all employees in the same classification;

(2) Pension and retirement benefits for active employees only;

(3) Employee benefits such as, but not limited to, insurance, leave, holidays and vacation;

(4) Hours and working conditions, including the availability and use of personal patrol vehicles;

(5) Provisions for the orderly processing and settlement of grievances concerning the interpretation and implementation of the collective bargaining agreement, which may include binding third party arbitration and provisions for exclusivity of forum;

(6) Matters affecting the health and safety of employees; and,

(7) The effect on employees of the employer's exercise of rights enumerated in subsection (b) hereof.

(b) Employer Rights.

This Article and any agreement pursuant hereto shall not impair the right and responsibility of the employer:

(1) To determine the overall budget and mission of the employer and any agency of County government;

(2) To maintain and improve the efficiency and effectiveness of operations;

(3) To determine the services to be rendered and the operations to be performed;

(4) To determine the overall organizational structure, methods, processes, means, job classifications or personnel by which operations are to be conducted and the location of facilities;

(5) To direct or supervise employees;

(6) To hire, select and establish the standards governing promotion of employees and to classify positions;

(7) To relieve employees from duties because of lack of work or funds, or under conditions when the employer determines continued work would be inefficient or nonproductive;

(8) To make and enforce rules and regulations not inconsistent with this law or a collective bargaining agreement;

(9) To take actions to carry out the mission of government in situations of emergency;

(10) To transfer, assign and schedule employees.

(c) Nothing contained in this Article shall be construed to limit the discretion of the employer voluntarily to discuss with the representatives of its employees any matter concerning the employer's exercise of any of the enumerated rights set forth in subsection 33-80(b) above, but such matters shall not be subject to bargaining.

(d) Collective bargaining shall commence no later than November 1 preceding the beginning of a fiscal year for which there is no contract between the employer and the certified representative and shall be concluded on January 20. The resolution of an impasse in collective bargaining shall be completed by February 1. These time limits may be waived only by prior written consent of the parties.

(e) Any provision for automatic renewal or extension of a collective bargaining agreement shall be void. No agreement shall be valid if it extends for less than one year or for more than three years. All agreements shall become effective July 1 and end June 30.

(f) Any collective bargaining agreement shall become effective only after ratification of the agreement by the employer and the certified representative, except as provided in subsection 33-81(b)(7). A certified representative may provide its own rules for ratification procedures.

(g) A ratified agreement shall be binding on the employer and the certified representative, and shall be reduced to writing and executed by both parties. Any term or condition thereof which requires an appropriation of funds or enactment, repeal or modification of a County law shall be timely submitted to the County Council by the employer and the employer shall make a good faith effort to have such term or condition implemented by Council action. On or before April 25, the County Council shall indicate by a majority vote its intention to appropriate or otherwise implement the agreement, or its intention not to do so, and shall state its reasons for any intent to reject any part or parts of the agreement. In the event the Council indicates its intention to reject, it shall designate a representative to meet with the parties and present the Council's views in their further negotiations. This representative shall also participate fully in stating the Council's position in any ensuing impasse procedure. The parties shall thereafter meet as promptly as possible in an attempt to negotiate an

agreement acceptable to the Council. Either of the parties may initiate the impasse procedure set forth in Section 33-81. The results of the negotiation or impasse procedure shall be submitted to the Council on or before May 10. Any agreement shall provide either for automatic reduction or elimination of such conditional wage and/or benefits adjustments if the Council fails to take action necessary to implement the agreement, or if funds are not appropriated, or if a lesser amount is appropriated.

33-81. Impasse Procedure.

(a) Prior to November 10 of any year in which the employer and a certified representative bargain collectively, they shall choose an Impasse Neutral either by agreement or through the processes of the American Arbitration Association. The Impasse Neutral shall be required to be available during the period from January 20 to February 1. Fees, costs and expenses of the Impasse Neutral shall be shared equally by the employer and the certified representative.

(b) (1) During the course of collective bargaining, either party may declare an impasse and request the services of the Impasse Neutral. If the parties have not reached agreement by January 20, an impasse shall be deemed to exist.

(2) Whenever an impasse has been reached, the dispute shall be submitted to the Impasse Neutral. The Impasse Neutral shall attempt mediation by bringing the parties together voluntarily under such favorable auspices as will tend to effectuate the settlement of the dispute.

(3) If the Impasse Neutral, in the Impasse Neutral's sole discretion, finds that the parties are at a bona fide impasse, the Impasse Neutral shall require each party to submit a final offer which shall consist either of a complete draft of a proposed collective bargaining agreement or a complete package proposal, as the Impasse Neutral shall choose. If only complete package proposals are required, the Impasse Neutral shall require the parties to submit jointly a memorandum of all items previously agreed upon.

(4) The Impasse Neutral may, in the Impasse Neutral's discretion, require the parties to submit evidence or make oral or written argument in support of their proposals. The Impasse Neutral may hold a hearing for this purpose at a time, date and place selected by the Impasse Neutral. Said hearing shall not be open to the public.



(5) On February 1 or prior thereto, the Impasse Neutral shall select, as a whole, the more reasonable, in the Impasse Neutral's judgment, of the final offers submitted by the parties. The Impasse Neutral may take into account only the following factors:

a. Past collective bargaining contracts between the parties, including the past bargaining history that led to such contracts, or the pre-collective bargaining history of employee wages, hours, benefits and working conditions;

b. Comparison of wages, hours, benefits and conditions of employment of similar employees of other public employers in the Washington metropolitan area and in Maryland;

c. Comparison of wages, hours, benefits and conditions of employment of other Montgomery County personnel;

d. Wages, benefits, hours and other working conditions of similar employees of private employers in Montgomery County;

e. The interest and welfare of the public;

f. The ability of the employer to finance economic adjustments and the effect of the adjustments upon the normal standard of public services by the employer.

(6) The Impasse Neutral shall not compromise or alter the final offer that he selects. Selection of an offer shall be based on the contents of that offer. No consideration shall be given to, nor shall any evidence or argument be received concerning the history of collective bargaining in this immediate dispute, including offers of settlement not contained in the offers submitted to the Impasse Neutral. However, the Impasse Neutral shall consider all previously agreed upon items integrated with the specific disputed items to determine the single most reasonable offer.

(7) The offer selected by the Impasse Neutral, integrated with the previous agreed upon items, shall be deemed to represent the final agreement between the employer and the certified representative, without the necessity of ratification by the parties, and shall have the force and effect of a contract voluntarily entered into and ratified as set forth in subsection 33-80(g) above. The parties shall execute such agreement.

33-82. Prohibited Practices.

(a) The employer or its agents or representatives are prohibited from:

(1) Interfering with, restraining or coercing employees in the exercise of any rights granted to them under the provisions of this Article;

(2) Dominating or interfering with the formation or administration of any employee organization or contributing financial or other support to it, pursuant to contract or otherwise; provided that the employer and a certified representative may agree to and apply a membership dues deduction provision as provided herein and to reasonable use of County facilities for communicating with employees;

(3) Encouraging or discouraging membership in any employee organization by discrimination in regard to hiring, tenure, wages, hours or conditions of employment, provided that nothing in this Article shall preclude an agreement from containing a provision for an agency shop;

(4) Discharging or discriminating against a public employee because he has filed charges, given testimony or otherwise lawfully aided in the administration of this Article;

(5) Refusing to bargain collectively with a certified representative;

(6) Refusing to reduce to writing or refusing to sign a bargaining agreement which has been agreed to in all respects;

(7) Refusing to process or arbitrate a grievance if required under a grievance procedure contained in a collective bargaining agreement;

(8) Directly or indirectly opposing the appropriation of funds or the enactment of legislation by the County Council to implement an agreement reached between the employer and the certified representative pursuant to this Article;

(9) Engaging in a lockout of employees.

(b) Employee organizations, and their agents, representatives and employees, are prohibited from:

(1) Interfering with, restraining or coercing the employer or employees in the exercise of any rights granted under this Article;

(2) Restraining, coercing or interfering with the employer in the selection of its representatives for the purposes of collective bargaining or the adjustment of grievances;

(3) Refusing to bargain collectively with the employer if such employee organization is the certified representative;

(4) Refusing to reduce to writing or refusing to sign a bargaining agreement which has been agreed to in all respects;

(5) Hindering or preventing, by threats of violence, intimidation, force or coercion of any kind, the pursuit of any lawful work or employment by any person, public or private, or obstructing or otherwise unlawfully interfering with the entrance to or egress from any place of employment, or obstructing or unlawfully interfering with the free and uninterrupted use of public roads, streets, highways, railways, airports or other ways of travel or conveyance by any person, public or private;

(6) Hindering or preventing by threats, intimidation, force, coercion or sabotage, the obtaining, use or disposition of materials, supplies, equipment or services by the employer;

(7) Taking or retaining unauthorized possession of property of the employer or refusing to do work or use certain goods or materials as lawfully required by the employer;

(8) Forcing or requiring the employer to assign particular work to employees in a particular employee organization or classification rather than to employees in another employee organization or classification;

(9) Causing or attempting to cause the employer to pay or deliver or agree to pay or deliver any money or other thing of value, in the nature of an exaction, for services which are neither performed or to be performed.

(c) A charge of prohibited practice may be filed by the employer, employee organization, or any individual employee. The charge or charges shall be filed with the Permanent Umpire, with copies to the party alleged to have committed a prohibited practice. All charges shall contain a statement of facts sufficient to enable the Permanent Umpire to investigate the charge. The Permanent Umpire may request withdrawal of and, if necessary, summarily dismiss charges if they are insufficiently supported in fact or in law to warrant a hearing. The Permanent Umpire shall have authority to maintain such independent investigation as the Permanent Umpire determines necessary and to develop rules and regulations therefor. If, upon investigation, the Permanent

Umpire finds that a charge is sufficiently supported to raise an issue of fact or law, the Permanent Umpire shall hold a hearing on such charge upon notification to the parties. In any hearing, charging parties shall present evidence in support of the charges and the party or parties charged shall have the right to file an answer to the charges, to appear in person or otherwise and to present evidence in defense of the charges.

(d) If the Permanent Umpire determines that the person charged has committed a prohibited practice, the Permanent Umpire shall make findings of fact and conclusions of law and shall be empowered to issue an order requiring the person charged to cease and desist from the prohibited practice and to take such affirmative action as will remedy the violation(s) of this Article. Remedies of the Permanent Umpire may include, but shall not be limited to, reinstating employees with or without back pay, making employees whole for any loss relating to County employment suffered as a result of any prohibited practice, withdrawing or suspending the employee organization's authority to negotiate or continue membership dues deductions, or agency shop benefits. If the Permanent Umpire finds that the party or parties charged have not committed any prohibited practices, the Permanent Umpire shall make findings of fact and conclusions of law and issue an order dismissing the charges.

(e) The Permanent Umpire shall not receive or entertain charges based upon an alleged prohibited practice occurring more than six (6) months prior to the filing of the charge.

#### 33-83. Expression of Views.

The expression of any views, argument or opinion, or the dissemination thereof, whether orally, in writing or otherwise, shall not constitute or be evidence of a prohibited practice under any of the provisions of this law nor be grounds for invalidating any election conducted under this law if such expression or dissemination contains no threat of reprisal or promise of benefit.

#### 33-84. Strikes and Lockouts.

(a) No employee or employee organization shall either directly or indirectly cause, instigate, encourage, condone or engage in any strike, nor the employer in any lockout. No employee or employee organization shall obstruct, impede, or restrict, either directly or indirectly, any attempt to terminate a strike.

(b) The employer shall not pay, reimburse, make whole or otherwise compensate any employee for or during the period when said employee is directly or indirectly engaged in a strike, nor shall the employer thereafter compensate an employee who struck for wages or benefits lost during such strike.

(c) If an employee or employee organization shall violate the provisions of this Section, the employer, after adequate notice and a fair hearing before the Permanent Umpire who finds that the aforesaid violations have occurred and finds that any or all of the following actions are necessary in the public interest, may, subject to the Law Enforcement Officer's Bill of Rights, Article 27, Sections 727 et seq., Annotated Code of Maryland:

(1) Impose disciplinary action, including dismissal from employment, on employees engaged in such conduct;

(2) Terminate or suspend employee organization's dues deduction privilege, if any;

(3) Revoke the certification of and disqualify the employee organization from participation in representation elections for a period up to a maximum of two (2) years.

(d) Nothing contained herein shall prohibit an employer from seeking any remedy available in a court of competent jurisdiction.

#### 33-85. Effect of Prior Enactments.

Nothing contained in this Article shall be construed to repeal any laws, executive orders, legislation, rules or regulations adopted by the County and any department or agency thereof not inconsistent with the provisions of this Article.

#### Sec. 4. Severability.

The provisions of this Act are severable and if any provision, clause, sentence, section, word or part thereof is held illegal, invalid or unconstitutional, or inapplicable to any person or circumstances, such illegality, invalidity or unconstitutionality, or inapplicability shall not affect or impair any of the remaining provisions, sentences, clauses, sections, words or parts of the Act or their application to other persons or circumstances. It is hereby declared to be the legislative intent that this Act would have been adopted if such illegal, invalid, or unconstitutional

provision, sentence, clause, section, word or part had not been included therein, and if the person or circumstances to which the Act or any part thereof is inapplicable had been specifically exempted therefrom.

Sec. 5. Effective Date.

This Act shall take effect on the 91st day following the date on which it becomes law.

Approved:

Neal Potter Apr. 9, 1982  
President, Montgomery County Council Date

Approved:

Charles W. GDD April 16, 1982  
County Executive Date

ATTEST:

Anna Spates April 16, 1982  
Secretary of the County Council Date

This page is  
intentionally blank.

Introduced: February 9, 1982  
Enacted: March 30, 1982  
Executive: March 31, 1982  
Effective: June 30, 1982

COUNTY COUNCIL

FOR MONTGOMERY COUNTY, MARYLAND

February Legislative Session 1982

Chapter 47

Laws of Montgomery County, 1982

AN ACT to amend Subsection (b) of Section 33-74, title "Cost-of-living adjustment" of Article IV, title "Employer-Employee Relations" of Chapter 33, title "Personnel" of the Montgomery County Code 1972, as amended, to allow the Chief Administrative Officer to establish salary maxima for grades 32 through 39 by utilizing a comparability study for Fiscal Year 1983 and to provide that no County employee's salary is reduced below its level as of June 30, 1982.

Be It Enacted by the County Council for Montgomery County, Maryland, that -

Sec. 1. Section 33-74, title "Cost-of-living adjustment" of Article IV, title "Employer-Employee Relations" of Chapter 33, title "Personnel" of the Montgomery County Code 1972, as amended, is hereby repealed and reenacted with amendments to read as follows:

33-74. Cost-of-living adjustment.

(a) \* \* \*

(b) Notwithstanding the provisions in (a) above, for Fiscal Year 1983 only the following salary controls shall apply:

1. Salary maxima of grades 5 through 31 will be adjusted by the full cost-of-living granted by the County Council.

2. The salary maximum for grade 40 shall be \$70,000.00.

3. The Chief Administrative Officer shall set the maximum for grade 39 at a level less than the salary maximum for grade 40 by utilizing a comparability survey which shall include a review of comparable jurisdictions nationwide similar in size and socio-economic characteristics, and comparable



positions in those jurisdictions as to job function and scope, and salaries and other benefits. The salary maxima for grades 32 through 39 shall be adjusted by the Chief Administrative Officer so that the dollar difference between the salary maxima of grades 31 through 39 is the same.

4. The salary for all merit employees will be adjusted by the full cost-of-living granted by the County Council to the extent that such salary adjustment does not exceed the maximum of the employee's grade.

5. No employee's salary is to be reduced below its level as of June 30, 1982 as a result of implementation of the provisions contained in paragraphs 1-4 above.

#### Sec. 2. Severability.

The provisions of this Act are severable and if any provision, sentence, clause, section, word or part thereof is held illegal, invalid or unconstitutional or inapplicable to any person or circumstances, such illegality, invalidity or unconstitutionality, or inapplicability shall not affect or impair any of the remaining provisions, sentences, clauses, sections, words or parts of the Act or their application to other persons or circumstances. It is hereby declared to be the legislative intent that this Act would have been adopted if such illegal, invalid or unconstitutional provisions, sentence, clause, section, word or part had not been included therein, and if the person or circumstances to which the act or any part thereof is inapplicable had been specifically exempted therefrom.

#### Sec. 3. Termination.

The provisions of this law shall remain effective only for Fiscal Year 1983 and shall be of no effect after June 30, 1983. Upon termination, Section 33-74 as it existed prior to May 15, 1981 shall be reinstated.

#### Sec. 4. Effective Date.

This Act shall take effect on the 91st day following the date on which it becomes law.

Approved:

Neal Potter  
President, Montgomery County Council

Mar. 30, 1982  
Date

Approved:

Charles W. Galt  
County Executive

March 31, 1982  
Date

ATTEST:

Annal Speth  
Secretary of the County Council

March 31, 1982  
Date

This page is  
intentionally blank.

Introduced: June 1, 1982  
Enacted: June 8, 1982  
Executive: June 21, 1982  
Effective: June 21, 1982

COUNTY COUNCIL  
FOR MONTGOMERY COUNTY, MARYLAND  
June Legislative Session 1982

Chapter 58  
Laws of Montgomery County, 1982

AN EMERGENCY ACT to repeal and reenact with amendments subsection (a) of Section 33-79, title "Selection, Certification, and Decertification Procedures," of Article V, title "Police Labor Relations," of Chapter 33, title "Personnel," of the Montgomery County Code, 1972, as amended, to change the dates for filing of initial petitions, to correct grammatical errors, and to amend uncodified Sec. 5, title "Effective Date" of Chapter 53 of the Laws of Montgomery County, 1982, for the purpose of making that Chapter emergency legislation, effective on the date it became law.

Be It Enacted By The County Council for Montgomery County, Maryland, that -

Sec. 1. Subsection (a) of Section 33-79, title, "Selection, Certification and Decertification Procedure," of Article V, title, "Police Labor Relations," of Chapter 33, title, "Personnel" of the Montgomery County Code, 1972 (as amended) is hereby repealed and reenacted to read as follows:

Section 33-79. Selection, Certification and Decertification Procedure.

(a) The certification or decertification of an employee organization as the unit's representative for the purpose of collective bargaining shall be initiated in accordance with the following procedures:

\* \* \*

(2) Where an employee organization has been certified, an employee within the unit may file a petition with the Permanent Umpire and shall transmit forthwith a copy of such to the employer and the certified representative, not including the names of the supporting employees, for

decertification of a certified representative. A petition must contain the uncoerced signatures of at least thirty percent (30%) of the employees within the unit alleging that the employee organization presently certified is no longer the choice of the majority of the employees in the unit.

\* \* \*

(4) Petitions may be filed between July 1, 1982 and July 31, 1982. Thereafter, petitions may be filed between September 1 and September 30 of any year, but no sooner than 22 months following an election held pursuant to this Section.

\* \* \*

(6) If, during the period of July 1 to July 31, 1982, a petition is filed by the incumbent representative of unit employees certified under the Employer-Employee Relations Article of this Chapter, and no other employee organization files a valid petition, that incumbent certified representative shall be certified without an election, provided it produces evidence, acceptable to the Permanent Umpire, of majority representation.

Sec. 2. Uncodified Sec. 5, title "Effective Date" of Chapter 53 of the Laws of Montgomery County, 1982, is hereby repealed and reenacted to read as follows:

Sec. 5. Effective Date. The Council hereby declares that an emergency exists and that this legislation is necessary for the immediate protection of public health and safety. Therefore, this Act shall take effect on the date on which it becomes law.

Sec. 3. Effective Date.

The Council hereby declares that an emergency exists and that this legislation is necessary for the immediate protection of the public health and safety. Therefore, this Act shall take effect on the date on which it becomes law.

Approved:

Neal Potter  
President, Montgomery County Council

June 10, 1982  
Date

Approved:

Charles W. Gilchrist  
County Executive

June 21, 1982  
Date

ATTEST:

Annal Spates  
Secretary of the County Council

June 21, 1982  
Date

Introduced: March 1, 1983  
Enacted: April 5, 1983  
Executive: April 18, 1983  
Effective: April 18, 1983

COUNTY COUNCIL  
FOR MONTGOMERY COUNTY, MARYLAND  
March Legislative Session 1983

Chapter 40  
Laws of Montgomery County, 1983

AN EMERGENCY ACT to amend Subsection (b) of Section 33-74, title "Cost-of-living adjustment" of Article IV, title "Employer-Employee Relations" of Chapter 33, title "Personnel" of the Montgomery County Code 1972, as amended, to allow the Chief Administrative Officer to establish salary maxima for grades 5 through 40.

Be It Enacted By The County Council for Montgomery County, Maryland, that -

Sec. 1. Subsection (b) of Section 33-74, title "Cost-of-living adjustment" of Article IV, title "Employer-Employee Relations" of Chapter 33, title "Personnel" of the Montgomery County Code 1972, as amended, is hereby amended to read as follows:

33-74. Cost-of-Living Adjustment.

\* \* \*

(b) Notwithstanding the provisions in (a) above, for Fiscal Year 1984 only, the following salary controls shall apply:

(1) The Chief Administrative Officer shall adjust the salary maxima in effect as of June 30, 1983 for grades 5 through 37 by the full cost-of-living granted by the County Council.

(2) The salary maxima for grades 38, 39 and 40 shall be \$68,000, \$69,000 and \$70,000, respectively.

(3) The salary for all merit employees will be adjusted by the full cost-of-living granted by the County Council to the extent that such salary adjustment does not exceed the maximum of the employee's grade.

\* \* \*

Sec. 2. The termination provisions of Chapter 45 of the Laws of Montgomery County 1981 (Sec. 3 of Bill 16-81) and Chapter 47 of the Laws of Montgomery County 1982 (Sec. 3 of Bill 3-82) be and hereby are repealed.

Sec. 3. Severability.

The provisions of this Act are severable and if any provision, clause, sentence, section, word or part thereof is held illegal, invalid or unconstitutional, or inapplicable to any person or circumstances, such illegality, invalidity or unconstitutionality, or inapplicability shall not affect or impair any of the remaining provisions, sentences, clauses, sections, words or parts of the Act or their application to other persons or circumstances. It is hereby declared to be the legislative intent that this Act would have been adopted if such illegal, invalid, or unconstitutional provision, sentence, clause, section, word or part had not been included therein, and if the person or circumstances to which the Act or any part thereof is inapplicable had been specifically exempted therefrom.

Sec. 4. Termination.

The provisions of subsection 33-74(b) shall remain effective only for Fiscal Year 1984 and shall be repealed and of no further force or effect on or after July 1, 1984.

Sec. 5. Effective Date.

The Council hereby declares that an emergency exists and that this legislation is necessary for the immediate protection of the public health and safety. Therefore, this Act shall take effect on the date on which it becomes law.

Approved:

*SLC* *April 7, 1983*  
President, Montgomery County Council Date

Approved:

*Charles W. Gekker* *April 18, 1983*  
County Executive Date

ATTEST:

*Annal Spates* *April 18, 1983*  
Secretary of the County Council Date

Introduced: June 21, 1983  
Enacted: December 6, 1983  
Executive: December 15, 1983  
Effective: March 15, 1984

COUNTY COUNCIL  
FOR MONTGOMERY COUNTY, MARYLAND  
June Legislative Session 1983

Chapter 24  
Laws of Montgomery County, 1984

AN ACT to amend the following sections of the Montgomery County Code 1972, as amended, for the purposes of establishing procedures for promulgation of executive regulations; providing for the publication of a Code of Montgomery County Regulations; providing for the periodic issuance of a Montgomery County Register, which is to be used as a temporary supplement to the Code of Montgomery County Regulations; and to provide for the periodic review of regulations: Chapter 2A, title "Administrative Procedures Act"; Sections 1-18(c) and 1-19 of Chapter 1, title "General Provisions"; Section 2-99, title "Annual compilation of laws...(etc.)" of Chapter 2, title "Administration"; Section 2-105, title "Procedure for adoption of rules and regulations by the county executive" of Chapter 2, title "Administration"; Sections 2-9, 2-15, 2-33, 2-42(c), and 2-140(a)(6) of Chapter 2, title "Administration"; Section 2B-5(a)(4) of Chapter 2B, title "Agricultural Land Preservation"; Sections 3-4(a) of Chapter 3, title "Air Quality Control"; Sections 3A-2 (c) and (f) and Section 3A-6 of Chapter 3A, title "Alarms"; Section 4-31 of Chapter 4, title "Amusements"; Sections 5-4, 5-7(a), 5-21, 5-43, 5-44, 5-45(b), 5-59(a), 5-67 and 5-69 of Chapter 5, title "Animal Control"; Section 5A-4(d) of Chapter 5A title "Arts"; Sections 8-13, 8-33, 8-34, 8-35 and 8-36 of Chapter 8, title "Buildings"; Sections 8A-11(e), 8A-13(b), 8A-18(f) and 8A-21(h) of



Chapter 8A, title Cable Communications"; Sections 10-3 and 10-11 of Chapter 10, title "Child Care"; Section 11-2(k) of Chapter 11, title "Consumer Protection"; Sections 11A-3(b)(2), 11A-5(e), 11A-7(c), 11A-9 and 11A-13 of Chapter 11A, title "Condominiums"; Sections 11B-18, 11B-20, 11B-23C, 11B-25, 11B-26(a), 11B-27 and 11B-39 of Chapter 11B, title "Contracts, procurement matters and public ethics"; Sections 13-1(a) and 13-7 of Chapter 13, title "Detention Centers and Rehabilitation Facilities"; Section 13A-4 and 13A-5 of Chapter 13A, title "Development Rights Fund"; Section 15-12 of Chapter 15, title "Eating and Drinking Establishments"; Sections 17-2(a) and (b), 17-22, 17-25(a), 17-37(a) and 17-38(b) of Chapter 17, title "Electricity"; Sections 19-6, 19-8, 19-17 and 19-31 of Chapter 19, title "Erosion and Sediment Control"; Section 19A-5(j) of Chapter 19A, title "Ethics"; Sections 21-4B(e) of Chapter 21, title "Fire and Rescue Services"; Sections 22-13, 22-37 and 22-96(g) of Chapter 22, title "Fire Safety Code"; Sections 23A-6, and 23A-9(a)(4) of Chapter 23A, title "Group Residential Care Facilities"; Section 24-9(j) of Chapter 24, title "Health and Sanitation"; Section 24A-4(h) of Chapter 24A, title "Historic Resources Preservation"; Section 25-18 of Chapter 25, title "Hospitals, Sanitariums, Nursing and Care Homes"; Sections 25A-3, 25A-6(a), and 25A-7(c) and (d), 25A-8(a) and 25A-10 of Chapter 25A, title "Housing, Moderately Priced"; Sections 25B-3(c)(5), 25B-4(b) and 25B-8 of Chapter 25B, title "Housing Policy"; Sections 26-21(g) and 26-22 of Chapter 26, title "Housing Standards"; Sections 27-6(a)(7), 27-6A(c), 27-26D(a), 27-29(g) and 27-42(j) of Chapter 27, title "Human Relations and Civil Liberties"; Sections 27A-4 and 27A-5(e) of Chapter 27A, title "Individual Water Supply and Sewage Disposal Systems"; Sections 29-10(a) 29-19, 29-28A(b)(3), and 29-49(a) of Chapter 29, title "Landlord-Tenant Relations"; Section 29A-5(b)(9) of Chapter 29A, title "Legislative Oversight"; Sections 30-2, 30-5, 30-8, 30-11 and 30-12 of Chapter 30, title "Licensing and Regulations Generally"; Sections 30B-3, 30B-10, 30B-13 and 30B-15 of Chapter 30B, title "Massage Establishments and Massage Technicians"; Sections 31-2, 31-5(b), 31-6(a), 31-9(b), 31-10, 31-21(b), 31-23, 31-26, 31-29(b),

31-30(a), 31-31(b), 31-33(a), 31-46(b), 31-48(b), (g) and (h), 31-51(a) and (b), 31-52(e), 31-57(a), 31-58, and 31-62(c) of Chapter 31, title "Motor Vehicles and Traffic"; Sections 31A-3(a), 31A-4(b) and 31A-8 of Chapter 31A, title "Motor Vehicle Repair and Towing Registration"; Sections 31B-3(d) and (e); 31B-10, 31B-12 and 31B-13 of Chapter 31B, title "Noise Control"; Sections 33-3(b), 33-7(b), 33-9(a), 33-12(b), 33-13, 33-13A(d), 33-18(g) and (j), 33-19(b), 33-47(b), and 33-77 of Chapter 33, title "Personnel"; Sections 35-3(c), 35-13A and 35-14(e) of Chapter 35, title "Police"; Sections 38A-4 and 38A-11 of Chapter 38A, title "Radio, Television and Electrical Appliance Installation and Repair"; Section 39-7 of Chapter 39, title "Rat Control"; Sections 41-4 and 41-23(a) of Chapter 41, title "Recreation and Recreation Facilities"; Sections 41A-2(a), 41A-3(c) and (e), 41A-7(a), 41A-9(a) and 41A-12 of Chapter 41A, title "Rent Supplement and Assistance Programs"; Sections 44-3(a)(5) and 44-22 of Chapter 44, title "Schools and Camps"; Sections 44A-3(b), 44A-4(c), 44A-5, 44A-8(b) and (c), 44A-9, 44A-11(b) and 44A-16 of Chapter 44A, title "Secondhand Personal Property"; Sections 47-13 and 47-22 of Chapter 47, title "Solicitors, Hawkers and Peddlers"; Sections 48-6, 48-26, 48-29(d) and 48-32(a) of Chapter 48, title "Solid Wastes"; Sections 49-1, 49-4, 49-7, 49-23(a), 49-27, 49-33, 49-33A(c), 49-36, 49-38(b), (c) and (g), 49-40(e), 49-68A and 49-75 of Chapter 49, title "Streets and Roads"; Sections 51-11 and 51-12(a) of Chapter 51, title "Swimming Pools"; Sections 52-7(k), 52-8, 52-16B(k), 52-18A(c), 52-18B(k), 52-18C(m), 52-18D(d), 52-21(d), 52-21(h)(4) and 52-21(i)(4) and (7) of Chapter 52, title "Taxation"; Sections 53-18, 53-19(c) and (e), 53-37A, 53-42 and 53-46(c)(5) of Chapter 53, title "Taxicabs and Limousines"; Sections 53A-3, 53A-8(c) and 53A-10 of Chapter 53A, title "Tenant Displacement"; Sections 54-2, 54-15, 54-19 and 54-23 of Chapter 54, title "Transient Lodging Facilities"; and Sections 56-1, 56-2A, 56-6, 56-30(h) and 56-34 of Chapter 56, title "Urban Renewal and Community Development"; Sections 56A-5(a), 56A-8 and 56A-9(b) of Chapter 56A, title "Video Games".

Be It Enacted by the County Council for Montgomery County, Maryland, that -

Sec. 1. Chapter 2A, title "Administrative Procedures Act" of the Montgomery County Code 1972, as amended, be and hereby is amended to read as follows:

Chapter 2A

Administrative Procedures Act

Article 1. Appeals from Administrative Agencies

2A-1.

\* \* \*

2A-2. Applicability

\* \* \*

(c) Appeals, grievances and complaints filed pursuant to Chapter 33, as amended, for which hearings are provided or required by that Chapter before the Montgomery County Merit System Protection Board.

\* \* \*

(f) Such other hearings as hereinafter provided for by law or executive regulations which are specifically designated as being governed hereby. In this regard, the County Executive is hereby authorized to add or delete additional quasi-judicial authorities from time to time by executive regulation adopted under Method (2) of Section 2A-15 of this Code.

2A-3. Conflicts of laws; interpretations.

(a) Where any provision of this Article conflicts with a substantive provision of an act pertaining to a particular agency, the latter shall prevail.

(b) The provisions of this Article are not intended to confer different or additional powers or jurisdiction on hearing authorities governed hereby; in this regard, this Article shall be construed to be procedural rather than substantive.

(c) The provisions set forth herein shall prevail over any agency rule of procedure and in the event of conflict, the latter shall be amended to conform with this Article; provided, however, that nothing herein shall be construed to limit or restrict a hearing authority from adopting additional rules of procedure as will implement this Article and the substantive provisions under which it operates so long as they are not in conflict with this Article.

(d) No action taken hereunder shall be declared invalid on the basis of procedural irregularities absent a finding of a denial of substantive due process. Substantial compliance with this Article shall be sufficient.

2A-4. Definitions.

The following words and phrases shall have the meaning assigned to them below, except when otherwise indicated in this Article.

Hearing authority. The Montgomery County Commission on Human Relations, or designated panel thereof; the Montgomery County Merit System Protection Board; the County Board of Appeals for Montgomery County; the Montgomery County Landlord-Tenant Commission, the Director of the Montgomery County Office of Consumer Affairs; or a hearing examiner or official so designated or appointed to conduct those hearings which are enumerated in Section 2A-2.

2A-5. Initiation of hearing process.

Any proceeding governed by this Article as specified in Section 2A-2 shall be initiated by filing a charging document in writing with the office of the hearing authority on forms provided therefor. Such forms shall include or be accompanied by a written statement which may include: a description of the nature and specifics of the allegation together with reference to sections of applicable laws, ordinances or regulations, if known; which are alleged to have been violated or relied upon. The statement shall contain the nature of the relief requested and if applicable the names and addresses of the person, persons, business entity or organization or agency alleged to have committed any violation or undertaken any action which is the subject of the proceedings governed by this Article. The statement may be accompanied by supporting documentation.

2A-8. Hearings.

(h) Powers of the hearing authority. In addition to any other power granted by this Article, a hearing authority is empowered:

(10) To take any other action authorized by this Article or necessary to a fair disposition of the case.

\* \* \*

(i) Hearing conduct and procedure.

(1) Unless otherwise provided by law:

\* \* \*

c. The members of any hearing authority shall be subject to disqualification for conflict of interest, and suggestions for disqualification of any member may be made on petition of any party.

\* \* \*

(j) Sanctions. The hearing authority may impose sanctions against parties and witnesses for failure to abide by the provisions of this Article, or for unexcused delays or obstructions to the pre-hearing and hearing process. Such sanctions may include suspension or continuance of scheduled hearings, dismissals of actions, denial of admission of documents and exhibits and admission of matters as adverse to a defaulting party.

\* \* \*

#### 2A-9. Emergency hearings.

Where the ordinary processing of any appeal may, due to time constraints, cause injury to any party, the hearing authority may for good cause grant an emergency hearing on its own motion or upon good cause shown by any party thereto. Where an emergency hearing is ordered by a hearing authority, it may suspend or alter any provisions of this Article necessary to avert such undue injury; provided, however, that in such cases, the hearing authority shall notify all parties of the operation of this Section, and make every reasonable effort to provide substantive due process of law to all parties. All hearings involving the removal or suspension of a County Merit System employee shall be governed by this Section.

#### 2A-10. Decisions.

\* \* \*

(c) Voting requirements.

Any decision rendered in conformance with the provisions of this Article must have the concurrence of a majority of the voting members of the decision making authority unless a greater number of votes are required by

law. Members of the hearing authority absent during a hearing may vote upon a matter upon written certification that they have read the transcripts and reviewed the evidence of record. If a majority of the members of the hearing authority are absent, the hearing authority may vote upon a matter upon written certification that they have read the transcripts and reviewed the evidence of record.

Failure to achieve the necessary affirmative votes shall act as a denial of the relief requested by the charging party by operation of law. No written opinion in this instance shall be required; provided, however, individual members of the hearing authority may file written reasons supporting their respective positions.

## 2A-11. Judicial review.

Any party aggrieved by a final decision in a case governed by this

Article, whether such decision is affirmative or negative in form, may appeal said decision to the Circuit Court for Montgomery County, Maryland, in accord with the provisions of the Maryland Rules of Procedure governing administrative appeals. Said court shall have the power to affirm, reverse or modify the decision or remand the case for further proceedings as justice may require. The filing of such appeal shall not stay the order of the hearing authority. Any party to the proceeding in the Circuit Court may appeal from such decision to the appellate courts of Maryland pursuant to applicable provisions of the Maryland Rules of Procedure.

## Article II. Regulations

### 2A-12. Declaration of Policy and Legislative Intent.

(a) Purpose. It is the purpose of this article to prescribe a single and consistent procedure for the adoption, periodic review and repeal of regulations, and to provide a uniform procedure for their public notification and compilation.

(b) Scope. Unless otherwise provided, the provisions of this Article apply to all regulations.

### 2A-13. Definitions.

(a) In General. Unless otherwise clearly indicated by the context, in this Article the following words have the meanings indicated.

(b) Administrative Procedure. "Administrative Procedure" means any written directive concerning the internal management of one or more County agency or department.

(c) CAO. "CAO" means the Chief Administrative Officer of the County.

(d) COMCOR. "COMCOR" means the Code of Montgomery County Regulations established under this Article.

(e) Executive Order. "Executive Order" means an order issued by the County Executive that directs a specific action.

(f) Promulgator. "Promulgator" means:

- (1) The County Executive; or
- (2) A person authorized by law to issue regulations.

(g) Regulation. (1) "Regulation" means any rule or standard that a promulgator by law is authorized to issue.

(2) "Regulation" includes any amendment to an existing regulation.

(h) Register. "Register" means The Montgomery County Register established under this Article.

2A-14. Authority to Adopt Regulations. If a law authorizes a promulgator to implement or enforce that law, the promulgator may adopt regulations to implement or enforce that law even if the authority to adopt the regulations is not specifically stated in that law.

**2A-15. Procedure for Adoption of Regulations.**

(a) **Requirement.** Before a regulation is effective, the regulation shall meet:

(1) The requirements of this Article; and

(2) Any other requirement imposed by law.

(b) **Single Subject Requirement.** A proposed regulation may not contain more than one subject matter.

(c) **Publication.** A promulgator shall publish in the Register:

(1) A summary of the proposed regulation;

(2) The place where a copy of the proposed regulation may be obtained;

(3) The date, time, and place of any public hearing;

(4) The name and address of a person to whom comments may be directed;

(5) The deadline for submitting comments;

(6) A citation of the section of the County code that authorizes the adoption of the regulation; and

(7) A statement of the procedural method under Subsection (d) of this Section that is to be used.

(d) **Procedures for Approval.** (1) A regulation shall be adopted under one of the 3 methods set out in this Subsection.

(2) A law authorizing a regulation may provide for one of the three methods to be used.

(3) If the law does not provide one of the three methods to be used, Method (2) shall be used.

**Method (1)**

1. The promulgator shall send a copy of the proposed regulation to the County Council within 14 calendar days after the deadline for comments published in the Register.

2. Within 30 calendar days after receipt of the proposed regulation under Part 1 of this Method, the County Council President may set a deadline for approval or disapproval of the proposed regulation.

3. If a deadline under Part 2 of this Method is not set, the proposed



regulation is placed on the Council agenda that immediately follows the 30 calendar days after receipt of the proposed regulation.

4. If necessary to assure complete review, the County Council by resolution may extend the deadline for County Council action.

5. The County Council by resolution may approve or disapprove in whole or in part the proposed regulation.

6. If the County Council approves the regulation, the regulation is effective 30 calendar days after the date of adoption of the resolution approving the regulation.

Method (2)

1. The promulgator shall send a copy of the proposed regulation to the County Council within 14 calendar days after the deadline for comments published in the Register.

2. The County Council by resolution may approve or disapprove in whole or in part the proposed regulation within 30 calendar days after receipt of the proposed regulation under Part 1 of this Method.

3. If necessary to assure complete review, the County Council by resolution may extend the 30 calendar day deadline under Part 2 of this Method.

4. If the County Council approves the proposed regulation, the regulation is effective 30 calendar days after the date of adoption of the resolution approving the regulation.

5. If the County Council does not approve or disapprove the proposed regulation within the 30 calendar days after receipt of the proposed regulation under Part 1 of this Method, the proposed regulation is automatically approved.

6. If the proposed regulation is automatically approved under Part 5 of this Method, the regulation is effective 60 calendar days after receipt of the proposed regulation under Part 1 of this Method.

7. If the County Council extends the time for approval or disapproval under Part 3 of this Method, until the expiration of the extended time, the proposed regulation is not automatically approved.

Method (3)

1. A proposed regulation under this Method is not subject to County Council approval or disapproval.
2. The promulgator shall send a copy of the proposed regulation to the County Council.
3. The regulation is effective 30 calendar days after the deadline for comments published in the Register.

(e) Amendment of Proposed Regulation. The promulgator may amend a proposed regulation if:

- (1) The County Council has not taken final action on the proposed regulation; and
- (2) The amendment relates to the advertised purpose of the proposed regulation.

(f) Withdrawal of Proposed Regulation. No later than 10 days before the effective date of a proposed regulation, the promulgator may withdraw the proposed regulation.

(g) Publication of Final Action. (1) In the issue of the Register that follows the final action taken on a proposed regulation, the promulgator shall publish the final action taken on the proposed regulation.

- (2) If the proposed regulation is approved, the promulgator shall:

- a. If a substantive change to the proposed regulation is not made, cite the issue of the register that contains the initial publication of notice of the proposed regulation; or

- b. If a substantive change to the proposed regulation is made, publish a summary of the proposed regulation as amended.

(h) Emergency Regulations. (1) If a promulgator determines that an emergency exists, an emergency regulation does not have to meet the publication and approval requirements of Subsection (c) and (d) of this Section.

- (2) An emergency regulation is effective:

- a. Immediately after:

1. The adoption of the emergency regulation by the promulgator; and

(2) ~~Section~~

2. The promulgator sends to the County Council a copy of the proposed regulation and a statement of reason for the emergency regulation; and

b. For a period of 45 days.

(3) a. The promulgator may request the County Council to extend the effective period of an emergency regulation.

b. The promulgator shall provide the County Council with written information stating the reason for an extension request.

(4) a. The County Council by resolution may repeal an emergency regulation.

b. If the County Council repeals an emergency regulation, the County Council shall give written notice to the promulgator of the reason for the repeal.

#### 2A-16. Administrative Procedures.

(a) Collection. The CAO shall develop a comprehensive collection of administrative procedures.

(b) Copy to the County Council. The CAO shall provide the Secretary of the County Council with a copy of the administrative procedures.

(c) Availability. The administrative procedures shall be available to any County employee.

(d) Prohibition. If a law delegates to a promulgator the authority to adopt a regulation, the promulgator may not adopt an administrative procedure instead of a regulation.

#### 2A-17. Executive Orders.

(a) Procedure for Adoption. The County Executive shall develop an administrative procedure for the adoption of any executive order.

(b) Content of Procedure. The administrative procedure shall provide for:

- (1) Adoption.
- (2) Notice.
- (3) Compilation.
- (4) Amendment.
- (5) Repeal.

(c) Copy to County Council. The County Executive shall provide the Secretary of the County Council with a copy of each executive order adopted.

2A-18. Compilation of Executive Regulations.

(a) COMCOR established. There is a code of Montgomery County regulations that includes:

- (1) Each regulation of the County government;
- (2) Any document that the CAO determines should be included;
- (3) Annotations of any judicial decision that cites a regulation or document contained in COMCOR;
- (4) Any explanatory annotation; and
- (5) An index by agency and subject matter.

(b) Duties of CAO. (1) The CAO shall compile, edit, index, and supplement COMCOR.

(2) The CAO may procure a contract to meet the requirements of this Subsection. (1) The CAO shall compile, edit, index, and supplement COMCOR.

(c) Plain Language Standards and Codification Systems. (1) Any regulation adopted under this Article shall be written under the plain language standard approved by the County Council.

(2) The CAO shall establish a codification system for executive regulations.

(3) Any regulation or document published in COMCOR shall meet the plain language standard and codification system of this subsection.

(d) Removal of Obsolete Regulations. With the advice of the County Council, the CAO may remove a regulation or a part of a regulation from COMCOR if:

- (1) The regulation is declared unconstitutional by a court of final appeal; or
- (2) The department or agency that enforced or administered the regulation ceases to exist and the functions and responsibilities of the department or agency are not transferred to a successor.

(e) Supplement to COMCOR. (1) At least once a year, each regulation adopted during the year and any document that the CAO determines should be included shall be published in a supplement to COMCOR.

(2) The index to COMCOR shall be revised and included in the supplement.

and delivery of the same to the person to whom it is directed.

2A-19. **Montgomery County Register.**

(a) **Register Established.** There is a Montgomery County Register

that shall be known as the Montgomery County Register.

(1) Is a temporary supplement to COMCOR;

(2) Publishes any regulation adopted between issues of the

Register; and

(3) Includes:

a. The information required under Section 2A-15 of this

Article for each regulation;

b. Any document that the CAO determines should be

included;

c. A table of contents; and

d. An index of the COMCOR sections affected.

(b) **Duties of the CAO.** (1) The CAO shall compile and publish the

Register.

(2) The CAO may procure a contract to meet the requirements of

this Subsection.

(c) **Frequency of Publication.** The Register shall be published at

least once every three months.

2A-20. **Pricing and Availability of COMCOR and the Register.**

(a) **Pricing.** The CAO shall set a reasonable price for each copy or

each subscription of:

(1) COMCOR;

(2) The Register; or

(3) The supplements to COMCOR.

(b) **Availability.** Anyone may purchase a copy of:

(1) COMCOR;

(2) The Register; and

(3) The supplements to COMCOR.

(c) **Free Distribution.** A copy of COMCOR, the Register, and the

supplements to COMCOR shall be distributed to:

(1) The Secretary of the County Council;

(2) The County Attorney;

(3) The County Executive;

(4) The State Hall of Records Commission;

(5) The State Law Library;

(6) The State Department of Legislative Reference;

(7) The Maryland-Municipal Collection of the Montgomery County Department of Public Libraries;

(8) The Office of Legislative Oversight;

(9) Any person that the County Council, by resolution

designates; and

(10) Any person that the County Executive, by executive order

designates.

That the regulation is subject to review and the regulation is subject to review

2A-22 Review of Regulations

That the regulation is subject to review and the regulation is subject to review

(a) Review Required. At least once every 4 years, each regulation

shall be reviewed by the County Council.

(b) Office of the CAO. The CAO shall keep

(1) Before July 1, 1984, establish four groups of regulations by

agency to be reviewed; and

(2) Designate each new regulation adopted to a group

established under Paragraph (1) of this Subsection;

(3) Before July 1, 1984, establish four groups of regulations by

(1) Time for Initial Review. (i) Group I is subject to review in

at FY 1985; and

(2) Group II is subject to review in FY 1986;

(3) Group III is subject to review in FY 1987; and

(4) Group IV is subject to review in FY 1988.

(d) Manner of Review. Each regulation shall be reviewed in the same manner as the Method under Section 2A-15 of this Article that is designated for the adoption of the regulation.

(e) Regulations Under Methods (1) and (2). If a Regulation is to be reviewed under Method (1) or (2) of Section 2A-15 of this Article, by October 15 of the year that the regulation is subject to review, the promulgator shall submit to the County Council:

(1) A copy of the regulation;

(2) A copy of the regulation written under the plain language standard adopted by the County Council;

(A) The State of Illinois

(3) A copy of any form used to carry out the regulation;

(4) A statement of any change to the regulation that the

promulgator proposes;

(5) A statement of any change in condition or law that affects

the regulation; and

(6) A statement of why the regulation is needed and that a

simpler way of accomplishing the purpose of the regulation cannot be found.

(f) Regulations Under Method (3). If a regulation is to be reviewed

under Method (3) of Section 2A-15 of this Article, by October 15 of the year

that the regulation is subject to review, the promulgator shall:

(1) Review the regulation for any change in condition or law that

affects the regulation; and

(2) Rewrite the regulation in the plain language standard adopted

by the County Council.

(g) Repeal of Regulation. (1) For any regulation reviewed under

Method (1) of Section 2A-15 of this Article, if the County Council by

resolution does not extend the regulation before February 15 of the year

after the regulation is subject to review, the regulation is repealed as of

June 30 of that year.

(2) For any regulation reviewed under Method (2) of Section

2A-15 of this Article, if the County Council by resolution does not repeal

the regulation before February 15 of the year after the regulation is

subject to review, the regulation continues in effect.

(3) Group I. (1) Each regulation shall be reviewed in the same

manner as the Method under Section 2A-15 of this Article that is designated

for the regulation.

(2) Each regulation shall be reviewed in the same manner as the Method under Section 2A-15 of this Article that is designated

for the regulation.

(3) Each regulation shall be reviewed in the same manner as the Method under Section 2A-15 of this Article that is designated

for the regulation.

(4) Each regulation shall be reviewed in the same manner as the Method under Section 2A-15 of this Article that is designated

for the regulation.

(5) Each regulation shall be reviewed in the same manner as the Method under Section 2A-15 of this Article that is designated

for the regulation.

(6) Each regulation shall be reviewed in the same manner as the Method under Section 2A-15 of this Article that is designated

Sec. 1A. Sections 1-18(c) and 1-19 of Chapter 1, title "General Provisions" of the Montgomery County Code 1972, as amended, be and hereby are amended to read as follows:

1-18. Civil fines and procedures.

(c) Amount of fine.

The amount of the civil fine which is to be imposed for a violation is that amount set forth in Section 1-19, unless a lower amount for a specific violation has been established by an executive regulations adopted by the County Executive under Method (1) of Section 2A-15 of this Code.

1-19. Enforcement of County Law.

Violations of County laws, ordinances and regulations identified as Class A, B, or C violations shall, upon conviction thereof before a court of competent jurisdiction, be punishable as a misdemeanor by a fine of not more than the amount shown below, or both such fine and imprisonment, in the discretion of the court.

Violations may, in the alternative and at the discretion of the agency responsible for enforcement thereof, be punishable as a civil violation, as set forth in Section 1-18. The civil fine shall be in the amount shown below, unless a lower amount for a specific violation has been established by an executive regulation adopted by the County Executive under Method (1) of Section 2A-15 of this Code.

Sec. 2. Section 2-99, title "Annual compilation of laws, ordinances, regulations or cumulative supplement - Required; preparation and publication; contents" of Chapter 2, title "Administration" of the Montgomery County Code 1972, as amended, be and hereby is amended to read as follows:

2-99. Annual compilation of laws, ordinances, regulations or cumulative supplement - required; preparation and publication; contents.

The County Attorney shall prepare and have published and printed under his direction, as soon as practicable after June 30, of each year a bound, hardback compilation or cumulative supplement to the Montgomery County Code which shall include the following:

(a) Laws enacted during the last previous twelve-month period ending June 30, etc. Laws enacted by the Council during the last previous twelve-month period ending June 30 or a cumulative supplement containing, as



amended, the sections of the Montgomery County Code amended during the preceding fiscal years, cumulated since the last publication of the Code, by enactments of the Maryland General Assembly or the Montgomery County Council.

(b) Other laws, etc. Other laws and ordinances enacted by the County Council, cumulated since the last publication of the Code which are not codified by section of the Montgomery County Code, shall be included in an appropriate place in every cumulative supplement; except, that standards and regulations adopted by reference to an existing specific publication need not be included in a cumulative supplement provided that the legislative vehicle by which such standard or regulation was adopted is included.

(c) Appropriation resolution. The appropriation resolution adopted by the County Council for the fiscal year current at the time of publication.

(d) Cumulative table of sections. A table of the sections of the County Code repealed, added or amended subsequent to the publication of the last edition of the Montgomery County Code.

(e) Changes in Constitution, etc. Changes in Article XI-A of the Maryland Constitution, Article 25A of the Annotated Code of Maryland, the Charter, and the rules of legislative procedure of the County Council.

(f) Indices. Appropriate indices of the foregoing.

Sec. 3. Section 2-105, title "Procedure for adoption of rules and regulations by the County Executive" of Chapter 2, title "Administration" of the Montgomery County Code 1972, as amended, be and hereby is repealed in its entirety. Any reference in the County Code to Section 2-105 shall be deemed to refer to Article II of Chapter 2.

Sec. 4. Sections 2-9, 2-15, 2-33, 2-42(c), and 2-140(a)(6) of Chapter 2, title "Administration", be and hereby are amended to read as follows:

2-9. County vehicles - Storage, parking, markings or identification, designation and use generally

Storage, parking, markings or identification, designation and use of County vehicles shall be provided for in executive regulations adopted by the County Executive under Method (3) of Section 2A-15 of this Code; provided, that in accordance with Section 2-10, such vehicles shall be used only for official County business.

2-15. Same.- Arms and ammunition; civilian defense personnel; rules, regulations, etc.

In order to carry out the provisions of Sections 2-14 through 2-16 of this Code the County Executive may provide and furnish arms and ammunition to the citizens of the County or to the militia of the State, and may provide and furnish any or all persons engaged in public defense within the County with protective armor and such other equipment and supplies and also purchase, rent, hire and maintain lands, buildings, and equipment as may be considered to be necessary and proper. The County Executive may engage the service of persons charged with assisting in public defense and may, with the approval of the Council, fix the compensation of such persons, including the payment for services heretofore rendered in connection with the civilian defense activities of the County, and may do all other things needful and necessary to protect and safeguard the people and property within the County from actual or threatened armed invasion or insurrection, and may alleviate their suffering resulting from fire, flood, disaster or epidemic of disease, or other such emergencies. The County Executive is authorized to adopt regulations under Method (2) of Section 2A-15 of this Code to protect the citizens of the County during blackouts, practice air raid alarms, air raids and invasion. All acts done and all money expended by the County for such purposes, either heretofore or hereafter, including the purchase of equipment for civilian defense organization and maintenance, the employment of administrative and technical aid in the interest of civilian defense, the purchase of medical supplies for casualty stations, and the purchase of arms, ammunition and providing and furnishing of telephone service and other service and supplies are hereby ratified and confirmed as just and lawful acts of the County.

2-33. Collection of taxes and special assessments; receipt of and responsibility for money; service charge for dishonored checks or drafts.

The Director of Finance shall collect all taxes and special assessments levied by the County Council, and such other taxes and assessments the collection of which may by the Charter or public general or local law be charged to the Department of Finance. The Director of Finance shall receive all money paid to the County from any source. The Director of Finance shall not be responsible for money paid to persons or officials not under the

Director's direction or control, until such monies have been properly transferred to the Director of Finance or someone designated by the Director for receipt of such funds.

When any check or draft tendered to Montgomery County in payment of any tax, fee, charge, penalty, interest or fine due the County is dishonored by a bank, a service charge of ten dollars or such other reasonable amount as may be established by executive regulation, adopted by the County Executive under Method (3) of Section 2A-15 of this Code, shall be imposed and added to the amount due and owing. The Director may require that the total amount due, including the service charge, be paid in cash, certified check or money order.

2-42. Generally

(c) Eligibility and fees for services. "The Council is hereby authorized to adopt resolutions establishing eligibility for services. Fee schedules for any Health Department services shall be established by the County Executive, by regulations adopted under Method (3) of Section 2A-15 of this Code, who may from time to time change such fees to an amount not to exceed the cost of the services provided therefor.

2-140. Powers, duties and functions.

(a) The Office of the Hearing Examiner shall have the following powers, duties and functions:

(6) To recommend regulations to the County Council to be adopted under Method (2) of Section 2A-15 of this Code to govern the conduct of public hearings and other functions of the Office of the Hearing Examiner.

Sec. 5. Section 2B-5(a)(4) of Chapter 2B, title "Agricultural Land Preservation" be and hereby is amended to read as follows:

2B-5. Agricultural easements - Generally.

(a) Purchase of easements.

(4) The purchase of easements by the County must be consistent with the General Plan of Montgomery County, as amended by applicable master plans. The County Executive shall adopt regulations, under Method (2) of Section 2A-15 of this Code, for the County purchase of easements.

Sec. 6. Section 3-4 of Chapter 3, title "Air Quality Control" be and hereby is amended to read as follows:

3-4. Rules and regulations. The County Executive may adopt regulations under Method (2) of Section 2A-15 of this Code, for this Chapter. Such regulations shall not conflict with or waive any provisions of this Code nor be less restrictive than regulations currently established and in effect as requirements of the State Department of Health and Mental Hygiene.

(b) Regulations adopted pursuant to provisions of this Section shall provide for but not be limited to the following:

(1) Control of particulate matter emissions from fuel burning installations, grain drying installations, materials handling and construction and other acts and installations;

(2) Control of gas, vapor, odor and volatile organic compound emissions from fuel burning and other installations;

(3) Prohibition of certain incinerators and new fuel burning installations;

(4) Application fees at a rate not to exceed the cost of administering the program;

(c) Notwithstanding any other provisions of this Section, the County Executive may adopt regulations under Method (2) of Section 2A-15 of this Code, regarding procedures for the issuance of permits for indirect sources of pollution in accordance with applicable State and Federal regulations.

Sec. 6A. Sections 3A-2(c) and (f) and Section 3A-6 of Chapter 3A, title "Alarms" of the Montgomery County Code 1972, as amended, be and hereby are amended to read as follows:

3A-2(c) Alarm signal response fees.

(c) The Office of Consumer Affairs will be responsible for publishing procedures and fees for the registration and the issuing of licenses to all alarm businesses that have consumers in Montgomery County and the issuing of the permits and permit decals to non-residential alarm users. The Office of Consumer Affairs will be responsible for the collection of the assessed fees

(f) The County Executive may adopt regulations, under Method (3) of Section 2A-15 of this Code, establishing procedures and fees for the registration and the issuing of licenses, permits and permit decals, and

outlining the pertinent information needed from alarm businesses when reporting alarms directly to the police. Failure to provide the required information when notifying the police of an alarm may be cause for the suspension or revocation of the alarm business license by the Office of Consumer Affairs.

3A-6. Rules and regulations. The County Executive shall adopt under Method (2) of Section 2A-15 of this Code, reasonable and necessary regulations for the implementation and administration of this Chapter.

Sec. 7. Section 4-31 of Chapter 4, titled "Amusements", is amended and hereby is amended to read as follows:

4-31. Applications generally. All applications for a license required by this Division shall be made to the Department on such form as shall be designated. Applications shall not be accepted for filing unless accompanied by a receipt of the Director of Finance showing payment to the County of a filing fee of fifty dollars, or such other amount as may be established by regulation adopted by the County Executive under Method (3) of Section 2A-15 of this Code, such fee to cover the cost of advertising in the newspaper and providing a transcript of the testimony at the hearing. No fee shall be refunded.

Sec. 8. Sections 5-4, 5-7(a), 5-21, 5-43, 5-44, 5-45(b), 5-59(a), 5-67 and 5-69 of Chapter 5, titled "Animal Control", are hereby amended to read as follows:

5-4. Adoption of additional regulations.

The County Executive is hereby authorized to adopt regulations under Method (2), of Section 2A-15 of this Code, necessary for the implementation of any of the provisions of this Chapter, including fees necessary for the administration of the Chapter.

5-7. Spaying, neutering and altering clinics.

(a) The County Executive shall establish a clinic or clinics to be operated either by the County or under contract, at which residents may have dogs or cats spayed, neutered or altered in a humane manner by a licensed veterinarian upon the payment of a fee to be determined by the County Executive by executive regulation adopted under Method (3) of Section 2A-15 of

this Code. Such fee may, in the discretion of the County Executive, be either uniform or graduated based on ability to pay. In cases of demonstrated inability to pay the required fee, the animal of such owner may be spayed, neutered or altered without charge. In addition, the County Executive may, in the Executive's discretion, contract for such services to be performed by licensed veterinarians at their own places of business.

5-21. Same - Redemption and disposition generally.

(a) The owner of any animal impounded for running at large or any vicious or dangerous animal impounded as hereinabove provided shall be entitled to redeem such animal upon payment of redemption fees established by written regulations of the County Executive, adopted under Method (3) of Section 2A-15 of this Code, and proof of ownership; provided, that the licensing provisions of this Chapter have been complied with.

(b) No animal impounded due to a violation of any Section of this Chapter, which has been previously impounded for a violation of any Section of this Chapter during the preceding twelve months, shall be released until a notice of violation of the applicable Section has been issued to the owner of such animal.

(c) Any domesticated animal which is impounded and not redeemed by its owner within five days following notice of impoundment shall be deemed abandoned and shall become the property of the County and may be adopted pursuant to Section 5-22 of this Chapter or otherwise disposed of in a humane manner which shall take into account the advice of a licensed veterinarian, in accordance with procedures prescribed by the County Executive by written regulation adopted under Method (3) of Section 2A-15 of this Code, such procedures to be examined periodically by a licensed veterinarian to assure that they are being carried out in a humane manner.

5-43. Maintenance of vaccination clinics.

The Health Officer shall maintain at least annually vaccination clinics at convenient locations in the County for such periods as he shall deem necessary and all dogs may be vaccinated at such clinics during such periods. The County Executive may, by written regulation adopted under Method (3) of Section 2A-15 of this Code, establish a fee for vaccinations to be collected in lieu of a license fee not to exceed the costs of administration.

5-44 Issuance of new vaccination certificate to replace lost or destroyed

certificate. The Health Officer or veterinarian who administered the vaccination

shall issue a new vaccination certificate to replace a lost or destroyed

certificate upon satisfactory evidence showing that the dog or cat was

vaccinated pursuant to the provisions of this Article. The County Executive

may, by written regulation adopted under Method (3) of Section 2A-15 of this

Code, establish a fee for replacement of lost or destroyed vaccination

certificates, not to exceed the costs of replacement.

5-45 Vaccination required. Every dog or cat owner of a dog or cat

to (a) be (b) No person licensed pursuant to Article VII of this Chapter may

own a dog or cat four months of age or less, unless a deposit is received for

the purpose of ensuring that the dog or cat will be vaccinated against

rabies. The amount of the deposit shall be \$10.00 or such other amount, not

to exceed \$50.00, as is specified by executive regulations adopted by the

County Executive under Method (3) of Section 2A-15 of this Code. The County

Executive is authorized and directed to adopt regulations, under Method (3) of

Section 2A-15 of this Code, specifying procedures for the collection, handling

and use of the deposits.

5-59 Required; issuance; duration. It shall be unlawful for any person to own or harbor a dog over

the age of four months unless such dog is licensed as provided by this

Article. Every person owning or harboring a dog within the County shall on or

before July 1 of each year or within ten days of acquiring any dog over four

months of age or within ten days after any such dog becomes four months of age

obtain an annual license for each dog so owned or harbored, except dogs kept

under a commercial kennel or fanciers' kennel license as provided in this

Chapter. The fee for all such individual dog licenses shall be established by

the County Executive by written regulation adopted under Method (3) of Section

2A-15 of this Code; provided, that no fee shall be charged for the licensing

of any dog trained to aid the blind and actually in use for such purpose; and

provided further, that the County Executive shall establish a differential

license fee for spayed and unspayed female dogs as a means to encourage owners

to have their animals spayed. When applications are made between January 1

and May 1 and the dog was not subject to licensing before that date, the license fee shall be one-half the specified amount. The County Executive may, by written regulation adopted under Method (3) of Section 2A-15 of this Code, increase or diminish any fees to an amount not to exceed the costs of administering and enforcing this Chapter.

5-67. Required; fee; issuance.

(a) It shall be unlawful for any person, association or corporation to operate, establish or maintain a pet shop either independently or as part of another commercial enterprise without first obtaining an annual license therefor from the Department. The license fee for pet shops shall be fixed by executive regulation adopted under Method (3) of Section 2A-15 of this Code by the County Executive who may from time to time increase or diminish such fee to an amount not to exceed the cost of administering this Article. Dogs harbored by a licensed pet shop for breeding purposes or sale may be taken under close supervision from the pet shop for exercise and returned to the pet shop in like manner but no dog harbored at a licensed pet shop may otherwise be permitted to leave the establishment without wearing an individual dog license tag if such a license is required under the provisions of this Chapter.

(b) It shall be unlawful for any person, association or corporation to operate, establish or maintain a commercial kennel without first obtaining an annual license therefor from the Department. The license fee for commercial kennels owning or keeping not more than twenty-five animals shall be twenty-five dollars and for commercial kennels owning or keeping more than twenty-five animals the license fee shall be fifty dollars; provided, that the County Executive may from time to time adopt executive regulations under Method (3) of Section 2A-15 of this Code to increase or diminish such fees to an amount not to exceed the cost of administering and enforcing this Article. Dogs harbored by a licensed commercial kennel for breeding purposes or sale may be taken under close supervision from the commercial kennel for exercise and returned to the commercial kennel in like manner but no dog harbored at a licensed commercial kennel may otherwise be permitted to leave the establishment without wearing an individual dog license tag if such a license is required under the provisions of this Chapter.

\* \* \*



(d) It shall be unlawful for any person, association or corporation to establish, operate or maintain a riding school or stable without first obtaining an annual license therefor from the Department. The license fees for riding schools and stables shall be fixed by the County Executive, by executive regulation adopted under Method (3) of Section 2A-15 of this Code, who may from time to time increase or diminish such to an amount not to exceed the cost of administering this Article.

5-69. Renewal; notification. The holder of any expiring license under this Article, desiring a new annual license to be effective on the expiration of the existing license shall, not less than thirty nor more than sixty days before the expiration of the existing license, file a written application for renewal with the Director giving such information as is required on the form provided therefor and pay the annual renewal fee in such amount as may be fixed from time to time by executive regulation adopted by the County Executive under Method (3) of Section 2A-15 of this Code. Licensees shall be notified by the Director at least sixty days prior to the expiration of a license.

Sec. 9. Section 5A-4(d) of Chapter 5A, title "Arts," be and hereby is amended to read as follows:

5A-4. Same as Membership and organization; more relevant; general issues (d) The Arts Council should establish regulations adopted under Method (2) of Section 2A-15 of this Code concerning its operation and functions; elections and/or appointments and terms of office of its governing body and officers; conduct of its meetings and administrative procedures relating to its activities.

Sec. 10. Sections 8-13, 8-33, 8-34, 8-35 and 8-36 of Chapter 8, title "Buildings" be and hereby are amended to read as follows:

8-13. Rules and regulations. (a) The director may recommend written regulations for the administration of the provisions of this Chapter, including a schedule of fees and may, at his discretion, hold public hearings as part of this rule-making process. Such regulations and amendments thereto shall not conflict with nor waive any provisions of this Chapter nor be less restrictive than its

provisions and shall be adopted by the County Executive under Method (2) of Section 2A-15 of this Code. In the case of fees, the County Executive shall promptly forward to the County Council a copy of the new fee schedule for use in budgetary planning activities. Such fees shall be in accordance with formulas based upon criteria to include area or estimated cost of construction or a minimal set fee per category, not to exceed the cost of administering and enforcing this Code.

(b) The Director shall hold public hearings, upon adequate public notice, prior to forwarding his or her recommendations for regulations setting forth the standards and requirements for the construction, alteration, addition, repair, removal, demolition, use, location, occupancy and maintenance of all buildings and structures, on-site access facilities to such buildings and structures and their service equipment within the County. Such regulations, adopted under Method (2) of Section 2A-15 of this Code, shall be based upon a designated edition of the BOCA Basic Building Code and local amendments thereto.

(c) Those provisions of Chapter 8 regulating standards and requirements described in subsection (b) herein repealed by this Act, shall continue in force and effect until they are superseded by regulations adopted and approved in accordance with subsection (b).

#### 8-33. Application; fees; qualifications.

The Director shall maintain a register for the Board of all applicants for business and all licenses, in such form as the Board shall require.

Any person desiring to be licensed as a building contractor in the County shall make and file with the Director a written application on a form approved by the Board. Each application shall be accompanied by an application fee which shall be established by the County Executive by written regulation adopted under Method (3) of Section 2A-15 of this Code. The applicant shall furnish information as to his character references and financial responsibility, his experience or training and education or the experience and training and education of his associates, construction superintendent or other principal employees in the building trade as the Board shall require. Before the issuance of a license the Director shall ascertain from reliable sources the applicant's record of compliance with the laws of

the State and the County. The Board may request further information from the Director or other sources, make independent investigations and conduct examination of the applicant, at its discretion. On the basis of the foregoing, it shall be the Board's duty, within thirty days after submission of an application for a license, unless the time is extended for good cause, to certify to the Director whether the applicant and his organization are qualified to comply with the building code and laws of the County and State, and to perform fully his building contracts, and whether he should be licensed and then to notify the applicant. In no case shall denial of certification be unreasonable and a denial shall be in writing stating the reason and shall be personally served or mailed by certified mail to the address on the application. Any denial may be appealed to the County Board of Appeals by filing notice of appeal with the Clerk of the Board of Appeals not later than ten days after such notice is personally served or mailed.

8-34. Issuance; bond required; fee.

The Director shall issue a license to applicants qualified to be licensed upon payment of a license fee which shall be established by the County Executive by written regulation adopted under Method (3) of Section 2A-15 of this Code, and deliver to the County a cash bond or a corporate bond executed by a surety company qualified to transact business in the State in the amount of two thousand dollars. The cash or corporate bond shall run to the County and shall be conditioned upon the licensee performing all work done by him in the County in accordance with the building code and laws of the County and State. The County or any person damaged by failure of the licensee to comply with such code and laws may proceed against such bond in any court of competent jurisdiction.

This bonding provision may be satisfied if the applicant has obtained a bond in at least the amount of two thousand dollars in connection with an organized program approved by the Board, which program provides procedures for the processing and resolution of complaints against such building contractor and thus affords substantially the same bonding protection to the public as the bond required by this Chapter.

The Director shall immediately revoke the license upon failure of any licensee to maintain such bond.

8-35. Term of licenses; renewals.

Licenses issued under this Article shall be valid for one year from the date of issuance and may be renewed upon application to the Director. Applicants for renewal shall pay to the County at the time of filing such application a fee which shall be established by the County Executive by written regulation adopted under Method (3) of Section 2A-15 of this Code.

8-36. Display; duplicates.

Holders of licenses issued under this Article shall display the same in a prominent place at their place of business and upon demand shall give the number of the license to any person who shall demand the same. If any license is lost, defaced or destroyed, the licensee may obtain a duplicate upon application to the Director and payment of a fee which shall be established by the County Executive by written regulation adopted under Method (3) of Section 2A-15 of this Code.

Sec. 11. Sections 8A-11(e), 8A-13(b), 8A-18(f) and 8A-21(h) of Chapter 8A, title "Cable Communications" be and hereby are amended to read as follows:

8A-11. Operations; minimum channel capacity; access channels; production facilities; charges; privacy.

(e) Further conditions for utilization of educational, general public and County government access shall be determined by subsequent local legislation or by executive regulation adopted by the County Executive under Method (1) of Section 2A-15 of this Code. Subject to the franchise agreement, where such legislation or regulations cause an increase in a franchisee's costs, the County shall negotiate compensation to it therefor.

8A-13. Operational Requirements; tests.

(b) Tests. In addition to all performance tests required to be conducted by the FCC, the County may require additional tests from time to time as required to determine compliance with technical performance standards. The County may require full or partial repeat tests, different test procedures, or tests involving a specific subscriber's terminal. Requests for such additional tests will be made on the basis of complaints received or other evidence indicating an unresolved controversy or significant noncompliance, and such tests will be limited to the particular matter in controversy. The County will endeavor to so arrange its requests for such

special tests as to minimize hardship or inconvenience to the franchisee or the subscribers. The County shall provide for such standards, tests and procedures as set forth in the franchise agreement and/or by executive regulation adopted by the County Executive under Method (2) of Section 2A-15 of this Code and after notice to franchisees.

8A-18. Administration.

The Montgomery County Executive or his designee shall have the responsibility for the administration and enforcement of this law and any franchise agreement. He shall have the following duties, powers and authority which he may delegate at his discretion:

(f) To adopt regulations, under Method (1) of Section 2A-15 of this Code, for the implementation of the intent of this Chapter and 8A-21. Lobby disclosure and conflict of interest.

(h) Reports.

(1) Each lobbyist required to register under this Section shall file a quarterly report itemizing compensation received and expenses incurred while retained as a lobbyist.

(2) Each applicant shall file a quarterly report itemizing all expenses incurred for the purpose of lobbying and public relations for the County franchise. Expenses reported under Section (h)(1) do not have to be reported by the applicant.

(3) All reports shall be on forms specified by the County Attorney, and shall be filed at such time and in such detail as specified in regulations which shall be adopted by the County Executive under Method (1) of Section 2A-15 of this Code. The period to be covered by such reports shall begin on the effective date of this law and shall terminate six months following the date the franchise is awarded.

Sec. 12. Sections 10-3 and 10-11 of Chapter 10, title "Child Care" be and hereby are amended to read as follows:

10-3. Regulations and administration of Chapter.

The County Executive is authorized to adopt executive regulations under Method (2) Section 2A-15 of this Code, for the implementation of this Chapter, including the establishment of health and welfare standards for group day care centers. This Chapter shall be administered by the Director of the Department of Health acting under the supervision of the County Executive.

10-11. License fee.

The fees for licenses issued under this Article shall be paid to the Director and shall be of such an amount as the County Executive by regulation adopted under Method (3) of Section 2A-15 of this Code, may set from time to time. The fees shall not exceed the cost of inspection and issuing the permits for the various establishments regulated by this Chapter. The permit fee so fixed shall be submitted with the application and is not refundable in whole or in part unless the application is withdrawn prior to the inspection of the premises by the Director or authorized agent of the Director. If the application is withdrawn prior to the inspection, the entire permit fee shall be refunded.

Sec. 13. Section 11-2(k) of Chapter 11, title "Consumer Protection" be and hereby is repealed and reenacted with amendments to read as follows:

11-2. Office of Consumer Affairs.

There is hereby created the Montgomery County Office of Consumer Affairs, hereinafter referred to as "Office." The County Executive shall appoint a single officer to be known as the Executive Director of the Office of Consumer Affairs, subject to the confirmation of the County Council. The office shall have the following duties, powers and authority:

(k) To adopt regulations, under Method (3) of Section 2A-15 of this Code, for the conduct of the activities of that office.

Sec. 14. Sections 11A-3(b)(2), 11A-5(e), 11A-7(c), 11A-9 and 11A-13 of Chapter 11A, title "Condominiums" be and hereby are amended to read as follows:

11A-3. Right of first refusal to purchase rental facilities.

(b) Notice required; exercise of right of first refusal.

(2) The County Executive may require the owner, by executive regulations adopted under Method (3) of Section 2A-15 of this Code, to make available to the County and its designated housing agency information regarding the characteristics and condition of the facility deemed relevant to the exercise of the right of first refusal, including but not limited to architectural and engineering plans and specifications and facility operating data. In addition, the County Executive by regulation adopted under Method (3) of Section 2A-15 of this Code may require the owner to provide access to the facility for purposes of inspection by the County or its designated housing agency provided, the County, its designated housing agency, and their

agents shall be responsible for any damage to the property caused by such inspection. The County Executive may provide by regulation that any information received by either the County or its designated housing agency, pursuant to this subsection, is confidential and not subject to public disclosure.

#### 11A-5. Extended leases.

(c) The County Executive, by executive regulations adopted under Method (3) of Section 2A-15 of this Code, may provide for implementation of this Section, including promulgation and enforcement of recordation

requirements for owners of condominium units subject to life tenancies under this Section and prohibitions against changes of business or leasing practices to circumvent the giving of extended tenancies under this Section.

#### 11A-7. Consumer guide.

(c) The consumer guide shall be sufficient if it contains the following:

- (1) Plat.
- (2) Sample deed.
- (3) Estimated itemized closing costs.
- (4) Estimated itemized monthly housing costs, including principal, interest, taxes, condominium fee and utilities.
- (5) Statement of all warranties, including statutory implied warranties.

(6) Name(s) of institutions offering long-term financing and terms, if the developer has obtained a commitment.

(7) Other information, as required by executive regulations

adopted by the County Executive under Method (3) of Section 2A-15 of this Code, to promote full and fair disclosure of the details of the transaction, the nature of condominium ownership and the characteristics of the particular condominium facility.

#### 11A-9. Budgeted reserves.

During the period when the developer retains control of the Council of

Unit Owners, the developer of a condominium shall budget and contribute

annually to reserves. The contribution of the developer shall be in

proportion to the number of condominium units owned by the developer, but in

no event shall the total annual contributions of all unit owners, including the developer, be less than an amount calculated to maintain the reserve fund at a level adequate for deferred maintenance, repairs and replacement of those common elements or major components of common elements that must be replaced on a periodic basis.

The County Executive shall by executive regulation adopt regulations under Method (3) of Section 2A-15 of this Code detailing requirements of the budgeted reserves to be incorporated in the consumer guide.

#### 11A-13: Administration of Chapter

The Office of Consumer Affairs shall be responsible for administration of this Chapter and the County Executive shall, from time to time, adopt under Method (2) of Section 2A-15 of this Code, written regulations necessary to put into effect and to administer the provisions of this Chapter.

Sec. 15. Sections 11B-18, 11B-20, 11B-23C, 11B-25, 11B-26(a), 11B-27 and 11B-39 of Chapter 11B, title "Contracts, procurement matters and public ethics" be and hereby are amended to read as follows:

#### 11B-18: General review requirements.

(a) The County Executive shall establish, by written regulation adopted under Method (1) of Section 2A-15 of this Code, the general requirements and procedures for review of professional service contracts within County government.

(b) Included among the requirements and procedures to be established by the County Executive shall be the following:

(1) Procedures for review by the Contract Review Committee of all professional service contracts and contract modifications in excess of ten thousand dollars and such other contracts and contract modifications as deemed appropriate.

(2) Procedures for coordination with and concurrence by concerned departments, offices and agencies.

(3) Procedures for review of contract modifications where these will affect the scope of the original contract or where they will result in an increase in expenditures above a specified amount.

(4) Procedures for departmental contractor qualification and selection committees to review, evaluate and recommend contractors for



professional service contracts in excess of ten thousand dollars or such other contracts as deemed appropriate.

(5) Such other factors as the County Executive deems appropriate to carry out the purpose and intent of this Chapter, including a prohibition

on dividing contracts in order to avoid the contract review process.

(c) Agreements between the Office of Architectural Services and the Civil Defense Preparedness Agency for professional architectural advisory

services, to be furnished in kind and at no cost to the County, for the

application of building design concepts to protect against the hazards of

natural, man-made and nuclear disasters, are not subject to these procedures.

#### 11B-20. Public announcement process.

(a) Procurement of professional services shall be announced in a

manner consistent with written regulations adopted by the County Executive

under Method (1) of Section 2A-15 of this Code, or by resolution of the County

Council, as appropriate.

(b) The public announcement will also be mailed to those potential

contractors who have been previously qualified and to local and State

professional organizations or societies for dissemination to their members.

#### 11B-23C. Procedures.

The Chief Administrative Officer shall structure the County's

procedures for purchasing materials, supplies, equipment, and services,

including construction services, to attempt to achieve, as a result, that a

minimum of 10% of the total dollar value of such purchases are made directly

or indirectly from minority businesses. These procedures may include

provisions for a minority preference in competitive bidding requirements for

contracts between seven thousand dollars (as adjusted by the County Executive)

and five hundred thousand dollars to allow for selection of a minority bidder

other than the lowest responsible bidder, provided the cost does not exceed an

amount determined by the Executive in his discretion and specified in the

invitation for bids, up to 120% of the lowest responsible bid, and provided

further that the invitation for bids for any contract where a minority

preference is to be used shall state the intention to utilize minority

preference procedures.

11B-25. Establishment of regulations.

(a) The County Executive shall adopt under Method (1) of Section 2A-15 of this Code, such regulations as shall be necessary to promote efficiency of operations and compliance with the provisions of this Chapter.

11B-26. Contract Review Committee; establishment; composition.

(a) The County Executive shall establish, by written regulation adopted under Method (1) of Section 2A-15 of this Code, a Contract Review Committee for the purpose of review and evaluation of the selection of contractors for professional services and such other responsibilities as specified elsewhere in this Chapter, or as may be assigned. The regulations shall provide for expeditious review and evaluation including specific periods of time for such review and evaluation. In addition, the Committee shall review all contracts where the award is to other than the lowest bidder when formal competitive bidding procedures are used.

11B-27. Departmental responsibilities.

(a) The County Executive shall establish by written regulation, adopted under Method (1) of Section 2A-15 of this Code, the responsibilities of and the procedures to be followed by the various departments, offices and agencies of County government engaged in contracting and procurement matters.

(b) Included among the responsibilities and procedures to be established by the County Executive shall be:

- (1) Development of request for and evaluation of contractual proposals.
- (2) Development of necessary plans and specifications.
- (3) Procedures for coordination with and concurrence by concerned departments, offices and agencies.
- (4) Fiscal and administrative controls.
- (5) Legal review.
- (6) Announcement of bids, proposals and contracts in a uniform and consistent manner.
- (7) Such other factors as the County Executive deems appropriate to carry out the purpose and intent of this Chapter.

11B-39. Regulations.

The Contract Review Committee may adopt regulations under Method (1) of Section 2A-15 of this Code, which provide to the fullest extent informal, expeditious and fair resolutions of claims and appeals.

Sec. 16. Sections 13-1(a) and 13-7 of Chapter 13, title "Detention

Centers and Rehabilitation Facilities" be and hereby are amended to read as follows:

13-1. Powers and duties generally of Director of Department of Correction and Rehabilitation

(a) The Director of the Department of Correction and Rehabilitation,

thereafter in this Chapter referred to as the Director, shall recommend to the County Executive who may adopt under Method (2) of Section 2A-15 of this Code,

all regulations of the County which pertain to the administration and

operation of the Department of Correction and Rehabilitation, not inconsistent

with law, necessary to exercise the responsibilities and duties of the

position.

13-7. Same - Payments for work and program participation

The Director of Finance is authorized to pay each inmate who is

assigned to work at an essential job or to participate in a program specified

by the Director at the rate of one dollar per day, or such higher rate as may

be established in executive regulations adopted by the County Executive under

Method (3) of Section 2A-15 of this Code, for the actual days worked or for

the actual days of successful participation in a program. The Director or

designee will maintain a list of essential inmate work positions and will

specify the programs for which inmates will be paid. Such payment shall not

be made for required housekeeping duties performed within an inmate's quarters

or confinement area.

Sec. 17. Section 13A-4 and 13A-5 of Chapter 13A, title "Development Rights Fund" be and hereby are amended to read as follows:

13A-4. Authority of the Board

The Board of Directors is hereby empowered to commit and authorize

expenditure of all, or a portion, of the funds made available to it: (1) to

establish a reserve fund to guarantee in whole, or in part, loans made by

commercial lending institutions insofar as such loans are secured by

development rights, and (2) to purchase and sell development rights

easements. It shall be the policy of the Board to facilitate the establishment of a private market for development rights and to serve as a financial resource available when private commercial resources are not readily available at prevailing market rates. The Board shall, after consulting with the Agricultural Preservation Advisory Board and after holding a public hearing, propose regulations to govern its operations. The regulations for the Board shall be adopted under Method (2) of Section 2A-15 of this Code by the County Executive. The regulations shall set forth eligibility requirements for loan guarantees and for sellers to and buyers from the fund of development rights. In addition to other requirements, the regulations shall provide that:

(a) The first priority for the use of its funds shall be to guarantee loans;

(b) Loan guarantees may not exceed 75% of the value of development rights. The Board may charge a fee for the loan guarantee;

(c) No loan guarantee may exceed five years, however, a single one year extension may be granted for good cause;

(d) Development rights which are purchased by the fund must be sold prior to the termination of the fund as provided in Section 13A-7 herein;

(e) The Board shall require evidence from the applicant that he has been unable to obtain a commercial loan using development rights as collateral before a loan guarantee may be approved. This requirement shall not apply to loan guarantees for existing loans;

(f) Development rights may be sold by the Board by any legally permissible means, including auction;

(g) The Board must determine the value of development rights for any negotiated purchase by obtaining two independent appraisals or some other reasonable means;

(h) Prior to purchasing development rights from an applicant, the Board shall require evidence from the applicant that he has been unable to sell development rights in the private market.

The Board shall be under no duty to act even if all requirements have been satisfied but may exercise its discretion and best judgment to fulfill the purpose of this Chapter. The Board shall report semi-annually to the

County Executive and the County Council on its financial activities.

13A-5. Eligibility requirements.

Before the fund can purchase development rights or make loan guarantees using development rights as collateral, it must be established to the satisfaction of the Board that the land to which the development rights attach is located within the rural density transfer zone. This eligibility requirement is in addition to any other requirements which may be established in the regulations proposed by the Board and adopted under Method (2) of Section 2A-15 of this Code.

Sec. 18. Section 15-12 of Chapter 15, title "Eating and Drinking Establishments" be and hereby is amended to read as follows:

15-12. Fees.

The fees for permits under this Article shall be of such an amount as the County Executive, by regulation adopted under Method (3) of Section 2A-15 of this Code, may set from time to time. The fees shall not exceed the cost of inspecting and issuing the permits for the various establishments regulated by this Chapter. The permit fee so fixed shall be submitted with the application and is not refundable in whole or in part unless the application is withdrawn prior to an inspection of the premises by the Director or his/her authorized agent. If the application is withdrawn prior to inspection, the entire permit fee shall be refunded.

The County Executive may waive all or part of the permit fee required for the following establishments which pay a license fee under some other licensing law of the County:

- (a) Hospitals, sanitariums, nursing homes and care homes.
- (b) Private educational institutions.
- (c) Child care homes.
- (d) Hotels, tourist homes, boardinghouses and rooming houses.

Sec. 19. Sections 17-2(a) and (b), 17-22, 17-25(a), 17-37(a) and 17-38(b) of Chapter 17, title "Electricity" be and hereby are amended to read as follows:

17-2. Regulations.

(a) The Director may recommend written rules and regulations for the administration of the provisions of this Chapter and may, at his discretion,

hold public hearings as part of this rule-making process. Such rules and regulations and amendments thereto shall not conflict with nor waive any provisions of this Chapter nor be less restrictive than its provisions and shall be adopted by the County Executive under Method (2) of Section 2A-15 of this Code.

(b) The Director shall hold public hearings, upon adequate public notice, with opportunity for full participation from members of the Board of Electrical Examiners and shall obtain the recommendations of the Board of Electrical Examiners prior to forwarding his recommendations for regulations setting forth the standards and requirements for all installations of electrical equipment within the County. Such regulations shall be based upon a designated edition of the National Electrical Code and local amendments thereto, including but not limited to those for the installation of fire alarm systems. Such regulations and amendments thereto shall be adopted by the County Executive under Method (2) of Section 2A-15 of this Code.

17-22. Same - Master electrician limited.

(a) Any person who desires to install, repair, maintain or erect electrical equipment as a master electrician limited, as defined in this Chapter, may at any time make application to the Director to be examined and the Director shall provide the applicant with the prescribed forms.

(b) An applicant may be licensed hereunder for a particular type of electrical installation or may be licensed for all types or as many types of limited electrical installations as defined herein and for which he shall be found qualified by the Board. He shall have been regularly and principally employed for four (4) years preceding application in the area of limitation, under the direction of a master electrician, or master electrician limited, where the limitation is in the same area as requested. The type of limited licenses shall be set forth in regulations adopted under Method (3) of Section 2A-15 of this Code by the County Executive upon recommendation of the Board. Particular license classifications shall include, without limiting, licenses for electrical connections and circuits to air conditioning, elevators, gasoline pumps, automatic heating furnaces whose principal operation is derived from fuel oil, gas, steam, solar panels, or coal, lighting, illuminated signs, and similar specialties, and electrical repair and

maintenance work, in plants, factories, apartment complexes and any public occupancy employing maintenance forces, fire alarm systems and electronic equipment, or major appliances, all employing the use of electrical current or connections. The conditions of the license shall appear plainly on the license.

(c) Those persons who are employed by a plant, factory, apartment, condominium, office building or other facility employing maintenance personnel are encouraged to obtain a master electrician's limited license for maintenance in order to be able to obtain permits for electrical maintenance work. In addition to the requirements in Section 17-22(a) and (b), the owner or agent for the building or buildings must certify that the applicant is a full-time employee and is covered by liability insurance in the amount established by Section 17-19(c).

17-25. Term of licenses; renewal.

(a) All licenses issued under this Chapter after the effective date of this legislation shall be valid for two years from the date of issuance and may be renewed upon application to the Director. Applicants for licenses and renewals thereof shall pay to the County a fee for a business license, master electrician's license, master electrician's limited license and journeyman electrician's license as provided for by regulations adopted under Method (3) of Section 2A-15 of this Code by the County Executive.

17-37. General requirements.

(a) It shall be the duty of the owner, agent, lessee, occupant, or any other person entitled to the beneficial use, rental or control of any building which is required under this Code to have a fire alarm system to provide, install and maintain therein a fire alarm system with sufficient alarm bells, striking stations or automatic detectors, of such type and character as contained in regulations adopted by the County Executive under Method (2) of Section 2A-15 of this Code.

17-38. Generally.

(b) The standards and requirements of this Chapter shall be based upon the currently designated edition of the National Electrical Code and amendments thereto as specified in regulations adopted by the County Executive under Method (2) of Section 2A-15 of this Code and are hereby declared to be

minimum standards and requirements. Any electrical equipment or installation which is equal or superior to such standards and requirements shall be deemed to be in compliance therewith.

Sec. 20. Sections 19-6, 19-8, 19-17 and 19-31 of Chapter 19, title "Erosion and Sediment Control" be and hereby are amended to read as follows:

19-6. Same - Fees.

The County Executive, by written regulations adopted under Method (3) of Section 2A-15 of this Code, may establish, increase or decrease permit and inspection fees and set nonrefundable fee schedules for filing, additional submissions, and permit renewals in an amount not to exceed the reasonable cost of administering and enforcing this Chapter.

19-8. Same - Expiration; renewal.

Every permit issued hereunder shall expire at the end of the period of time set out in the permit. The permittee shall fully perform and complete all of the work required to be done within one year after the date of issuance, unless specified otherwise by the Department for good cause shown. If the permittee shall be unable to complete the work within the specified time, he shall, within thirty days prior to expiration of the permit, present in writing to the Department a request for an extension of time, setting forth therein the reasons for the requested extension. If, in the discretion of the Director, such an extension is warranted, he may grant additional time for the completion of the work for an additional fee, such fee to be established by the County Executive by written regulation adopted under Method (3) of Section 2A-15 of this Code. Where the Director determines that the extension of time will require a substantial modification of the grading, erosion and sediment control plan, any extension of a permit shall be subject to approval of a revised sediment control plan by the District.

19-17. Regulations.

(a) The Director may recommend written regulations for the administration of the provisions of this Chapter and may, at his discretion, hold public hearings as part of this rule-making process, with opportunity for full participation from the County Soil Conservation District and shall obtain the recommendations from the District prior to forwarding his recommendations for regulations. Such regulations and amendments thereto shall not conflict



with nor waive any provisions of this Chapter nor be less restrictive than its provisions and shall become effective upon their adoption by the County Executive under Method (3) pursuant to Section 2A-15 of this Code.

(b) The Director shall hold hearings upon adequate public notice of no less than thirty days, with opportunity for full participation from the Soil Conservation District and shall obtain the recommendations from the Soil Conservation District prior to forwarding his recommendations for regulations for provisions set forth in subsection (c) of this Section. Such regulations shall not conflict with nor waive any provisions of this Chapter nor be less restrictive than regulations promulgated and in effect as requirements of the State Department of Natural Resources. Such regulations and amendments thereto shall become effective upon their adoption by the County Executive under Method (2) of Section 2A-15 of this Code.

(c) Regulations adopted under this Chapter shall establish criteria which shall not conflict with nor waive any provisions of this Chapter nor be less restrictive than criteria adopted for the same purposes by the Soil Conservation District. These regulations shall include but not be limited to the following provisions:

- (1) Maximum duration of exposure;
- (2) Critical slope protection;
- (3) On-site grading controls;
- (4) On-site drainage controls
- (5) Protection of specimen trees.

19-31. Regulations; interagency agreements.

The Director may recommend written regulations for the administration of the provisions of this Article, and shall hold public hearings as part of this rule-making process, with opportunity for full participation by the District and the Commission. Such regulations, and amendments thereto, shall not conflict with, nor waive, any of the provisions of this Chapter, nor be less restrictive than its provisions, and shall become effective upon their adoption by the County Executive under Method (2) of Section 2A-15 of this Code. Such regulations shall include the establishment of a fee schedule for monetary contributions to the County in lieu of the required on-site storm water management facility, and may also include design standards and other

criteria or procedures necessary to implement the provisions of this Article. The Executive, the District and the Board shall, within sixty days following the effective date of this Article, execute such agreements as may be necessary to implement its provisions, including the monitoring and review on a periodic basis, of the effect that the program has had on the watersheds of the County. These agreements shall become effective within thirty days of their effective date, unless disapproved by the County Council.

Sec. 21. Section 19A-5(j) of Chapter 19A, title "Ethics" be and hereby is amended to read as follows:

19A-5. Montgomery County Ethics Commission.

(j) The County Ethics Commission shall adopt under Method (2) of Section 2A-15 of this Code reasonable and necessary regulations for the implementation and administration of this Chapter.

Sec. 22. Sections 21-4B(e) of Chapter 21, title "Fire and Rescue Services" be and hereby is amended to read as follows:

21-4B. Fire and Rescue Commission.

(e) Duties, responsibilities and authority. The Commission, on behalf of the County, is hereby authorized to develop effective, efficient and equitable fire, rescue and emergency medical services County-wide, and to provide the policy and regulatory framework for all such fire, rescue and medical service operations. The Commission shall work closely with both the Director and the Fire Board. The Commission shall have the following functions in addition to those elsewhere assigned by law, or regulation adopted by the County Executive under Method (2) of Section 2A-15 of this Code:

- (1) Advise the County Executive and the County Council on any matter relating to fire, rescue and emergency medical services.
- (2) Adopt County-wide policies, standards, procedures, plans and programs applicable to all fire, rescue and emergency medical service operations;
- (3) Adopt regulations under Method (2) of Section 2A-15 of this Code;
- (4) Establish communications and dispatch procedures for emergency operations centers; and

(5) Establish guidelines for curriculum and programs of the Public Service Training Academy.

Sec. 23. Sections 22-13, 22-37 and 22-96(g) of Chapter 22, title "Fire Safety Code" be and hereby are amended to read as follows:

22-13. Rules and Regulations.

(a) The Director may recommend written regulations for the administration of the provisions of this Chapter including a schedule of fees and hold public hearings as part of the rule-making process. Such regulations and amendments thereto shall not conflict with nor waive any provisions of this Chapter nor be less restrictive than its provisions and shall become effective upon their adoption by the County Executive under Method (2) of Section 2A-15 of this Code. In the case of fees, the County Executive shall promptly forward to the County Council a copy of the new fee schedule for use in budgetary planning activities. Such fees shall be in accordance with formulas based upon criteria to include area or estimated cost of construction, or cost of inspection and processing or a minimal set fee per category, not to exceed the cost of administering and enforcing this Code.

(b) The Director shall hold public hearings, upon adequate public notice of not less than thirty days, prior to forwarding his recommendations for regulations setting forth the standards and requirements for controlling the hazards of fire and explosion from improper storage, handling or use of substances, materials or devices and for controlling the hazardous use of property.

22-37. Regulating fire extinguisher service.

The Director of the Department of Fire and Rescue Services shall exercise the following functions, powers and duties:

(1) To administer such regulations as may be determined necessary for the protection and preservation of life and property in controlling:

i. The registration of firms engaging in the business of servicing portable fire extinguishers;

ii. The registration of firms engaging in the business of hydrostatically testing U.S. Department of Transportation specification gas cylinders used for portable fire extinguishers;

iii. The examination of persons applying for a license to service portable fire extinguishers;

iv. The licensing of persons to service portable fire extinguishers;

v. The requirements for servicing of portable fire extinguishers.

(2) To evaluate the qualifications of firms or individuals for a certificate of registration to engage in the business of servicing portable fire extinguishers.

(3) To conduct examinations to ascertain the qualifications and fitness of applicants for a license to service portable fire extinguishers.

(4) To issue certificates of registration for those firms that qualify under these regulations to engage in the business of servicing portable fire extinguishers, and issue licenses, apprentice permits, and authority to perform hydrostatic testing to the qualified persons.

22-96. Smoke detectors.

(g) Permits and fees.

No smoke detector or alternative system shall be directly connected (permanently wired) to the electrical system of the structure unless an electrical permit shall have first been obtained from the Department of Environmental Protection or the municipal electrical permit authority having jurisdiction. The County Executive is hereby authorized to adopt, under Method (3) of Section 2A-15 of this Code, a fee schedule for the issuance of said permit which shall not exceed the cost of administration of this Section; further, the County Executive is authorized to waive, partially or wholly, the fee requirement at his discretion, or to issue multiple permits under the payments of a single fee.

Sec. 24. Sections 23A-6(a) and (b), and 23A-9(a)(4) of Chapter 23A, title "Group Residential Care Facilities" be and hereby are amended to read as follows and Sections 23A-6(c), (d) and (e) are renumbered as (b), (c) and (d):  
23A-6. Regulations.

(a) The County Executive may adopt or amend written regulations under Method (2) of Section 2A-15 of this Code for this Chapter. Such regulations shall not conflict with nor waive any provisions of this Chapter, nor be less restrictive than its provisions or those found in Chapter 26 of this Code.

**23A-9. Annual facility license; procedures; conditions; administration and enforcement.**

(a) **License procedures.** The Director shall process any facility

license application according to the following procedures:

(4) Applicants shall pay to Montgomery County, Maryland a fee to be established and revised, by executive regulation adopted under Method (3) of Section 2A-15 of this Code, from time to time by the County Executive not

to exceed the costs of administering this Chapter.

**Sec. 25. Section 24-9(j) of Chapter 25, title "Health and Sanitation",**

be and hereby is amended to read as follows:

**24-9. Smoking prohibitions and restrictions.**

(j) **Regulations.** The County Executive shall adopt reasonable and necessary regulations, under Method (2) of Section 2A-15 of this Code, for the implementation, administration and enforcement of this Chapter.

**Sec. 26. Section 24A-4(h) of Chapter 24A, title "Historic Resources**

**Preservation", be and hereby is amended to read as follows:**

**24A-4. Historic Preservation Commission - Generally.**

(h) **Regulations.** The Commission may adopt, under Method (2) of Section 2A-15 of this Code, such regulations as it may be deemed necessary for the proper transaction of the business of the Commission.

**Sec. 27. Section 25-18 of Chapter 25, title "Hospitals, Sanitariums,**

**Nursing and Care Homes", be and hereby is amended to read as follows:**

**25-18. Fees.**

(a) The annual license fees for all institutions subject to the

provisions of this Article shall be established and may be revised from time

to time by the County Executive by written regulations adopted under Method

(3) of Section 2A-15 of this Code in an amount not to exceed the reasonable

costs of administration and enforcement of this Chapter.

(b) No annual license shall be issued by the Department until payment

of the prescribed license fee has been made to the Department of Finance by

the institution requesting the license.

**Sec. 28. Sections 25A-3, 25A-6(a), 25A-7(c) and (d), 25A-8(a) and**

**25A-10 of Chapter 25A, title "Housing, Moderately Priced", be and hereby are**

**amended to read as follows:**

25A-3. Definitions.

\* \* \*

Moderate income: The phrase "moderate income" means levels of income which prohibit or severely limit the financial ability of persons to purchase or to rent housing in Montgomery County and which, therefore, based upon the experience in the housing market in Montgomery County, require that the type of moderately priced housing intended to be developed under the provisions of this Chapter be constructed.

Moderate income levels shall be established by written regulations which shall be adopted under Method (1) of Section 2A-15 of this Code and revised by the County Executive at such time as corresponds with the promulgation and revision of the executive regulations which establish the sales and rental prices for moderately priced dwelling units, as required by Section 25A-3 herein, or more frequently as deemed necessary by the County Executive.

In establishing the moderate income levels, the County Executive shall consider, but shall not be limited to a consideration of, the price established for the sale or rental of dwelling units developed pursuant to the provisions of the Chapter plus the term, interest rate and taxes applicable to the financing of such dwelling units, the estimated levels of income necessary to finance the acquisition of such dwelling units, the family size and number of dependents.

Moderately priced dwelling unit: The phrase "moderately priced dwelling unit" means a dwelling unit which meets the specifications of either paragraph (1) or (2) below:

(1) A dwelling unit which is constructed, sold or rented under a federal program to assist the construction of housing for families of low income, namely, (i) "conventional" or "turnkey" construction of dwelling units for the County Housing Opportunities Commission (hereinafter the "Commission") or construction in reliance upon an agreement by the Commission prior to commencement of construction to enter into a lease (commonly known as "turnkey leasing") or purchase contract for dwelling units after completion thereof, as authorized by the United States Housing Act of 1937 (codified as 12 U.S.C. 1401-1436), as amended, or (ii) provision of dwelling units under the Federal

rent supplement program authorized in Section 101 of the Housing and Urban Development Law (codified as 12 U.S.C. 1701s), as amended, or (iii) a dwelling unit which is constructed, sold or rented under a Federal program to assist the construction or occupancy of housing for families under the programs for homeownership, rental and/or cooperative housing authorized in Section 235 and 236 of the National Housing Act (codified as 12 U.S.C. 1715z and 1715z-1), as amended, or (iv) any other dwelling unit which is constructed, sold or rented under a Federal, State or local government program identified by the County Executive in written regulations adopted under Method (1) of Section 2A-15 of this Code, as designed to assist the construction or occupancy of housing for families of low or moderate income as defined under those programs.

(2) A dwelling unit which is sold or rented in accordance with the following:

a. Sales housing. The sales price of housing for sale for single-family dwelling units (including closing costs and brokerage fees) shall not exceed the applicable maximum sales price set forth herein or as established from time to time by the County Executive by written regulation, adopted under Method (1) of Section 2A-15 of this Code in accordance with the schedule of adjustments outlined below:

\* \* \*

b. Rental housing. The rental price, including utilities and parking, for any dwelling unit described in subparagraph (2) of the definition of the term moderately priced dwelling unit shall not exceed the maximum rental price for such dwelling unit, as established by written regulation adopted by the County Executive, under Method (1) of Section 2A-15 of this Code, or as might be applicable under any system of rent controls in effect in the County.

The rental price of dwelling units rented pursuant to the provisions of this Chapter shall be established by written regulations adopted by the County Executive under Method (1) of Section 2A-15 of this Code, at the times and following the procedures set forth above for sales housing. Different rental prices shall be established for units where utility costs are borne by the tenant and not included in the rent.

The County Executive, in determining the rental price, shall take into consideration the current rent payable to lessors of dwelling units under programs identified by the Executive; pursuant to the definition of moderately priced dwelling unit. The County Executive, in determining the rental price, shall seek, in addition to the above guideline, such other information as from time to time may be required, such as rents currently being paid to lessors in the private market, and shall consult with the rental industry, employers and professional and citizens groups to obtain statistical information, including vacancy ratios in available rental housing in the private market and current general market and economic conditions, which may enable the County Executive to arrive at a current maximum rental price for moderately priced dwelling units. Consideration shall be given to cost of construction; capital and operating costs of such rental units and changes from time to time in the income levels of persons of low and moderate income and their ability to rent housing. The County Executive shall consider also the extent to which, consistent with the requirements of County codes and housing standards, the cost of rental housing can be reduced by the elimination of certain amenities.

25A-6. Sale or rental of moderately priced dwelling units.

(a) Sale or rental to general public.

(1) Subject to the provisions of this subsection, every moderately priced dwelling unit required by this Chapter shall be offered to the general public for sale or rental to a good faith purchaser or renter to be used for his or her own residence, with the exception of units offered for sale or rent with the assistance of, and subject to the conditions of, a subsidy under a Federal, State or local government program, identified in regulations adopted by the County Executive under Method (1) of Section 2A-15 of this Code, whose purpose is to provide housing for persons of low or moderate income.

\* \* \*

(5) Every purchaser or renter of a moderately priced dwelling unit shall certify on a form prescribed by the Director of the Department of Housing and Community Development that he or she is acquiring or leasing said unit for his or her own, or family's, primary place of residence. Purchasers



Bill No. 46-83

These units shall be leased and administered as follows:

21-25A-7: Control of subsequent sale or rental prices; foreclosure.

(c) Subsequent rental price. Moderately priced dwelling units constructed or offered for rent under this Chapter shall not be rented during a period of ten years from the date of original rental at a rental rate greater than that established by regulations adopted by the County Executive under Method (1) of Section 2A-15 of this Code. Whenever any moderately priced dwelling unit (as described in subparagraph (2) of the definition of that term and other than those offered by the Commission) is offered for rent during the aforesaid control period, it shall be offered exclusively for 60 days to the Housing Opportunities Commission and persons of moderate income, as defined by this Chapter and as determined eligible by the Department of Housing and Community Development, for use as his or her own residence. The Commission may assign its right to rent such units to persons of low or

moderate income who are eligible for assistance under any Federal, State or local program identified in regulations adopted by the County Executive under Method (1) of Section 2A-15 of this Code.

(d) County foreclosure regulations. Notwithstanding the foregoing provisions, the County Executive is authorized to adopt written regulations under Method (1) of Section 2A-15 of this Code dealing with foreclosure proceedings.

25A-8. Executive regulations; enforcement of Chapter.

(a) For the purpose of effectuating the requirements of this Chapter, the Department of Housing and Community Development shall maintain a list of all moderately priced dwelling units constructed, sold or rented pursuant to this Chapter, and the County Executive shall, from time to time, adopt such written regulations, under Method (1) of Section 2A-15 of this Code, as may be necessary to put into effect and to administer the provisions of this Chapter.

25A-10. Applicability.

The provisions of this Chapter, as amended, shall be applicable to all applicants and units developed by applicants, except that where a person qualified as an applicant prior to October 1, 1981, the following shall apply:

(a) The required percentage of moderately priced dwelling units specified in Section 25A-4(a)(1) shall be 15%;

(b) The price control period for sale and rental units shall be five years; and

(c) The provisions of Section 25A-6(a)(4) shall not be applicable.

An applicant may elect to waive the exception noted above in its entirety, according to such procedures and at such times as shall be specified in regulations adopted by the County Executive under Method (1) of Section 2A-15 of this Code. Any agreement required by Section 25A-4 shall be submitted or amended to conform with such election.

Sec. 28A. Sections 25B-3(c)(5), 25B-4(b) and 25B-8 of Chapter 25B, title "Housing Policy" of the Montgomery County Code 1972, as amended, be and hereby are amended to read as follows:

25B-3. Housing Policy implementation.

(c) The County Executive shall:

(5) Revise or recommend revisions, under Method (2) of Section 2A-15 of this Code, to regulations which add unnecessarily to the cost or delay of housing construction;

25B-4. Annual Housing Report.

(b) The County Executive shall also include in the Annual Housing Report a report of existing and approved assisted-family housing and other characteristics affecting the suitability of placing additional units of assisted-family housing by census tract or other enumeration area as designated by executive regulation adopted under Method (3) of Section 2A-15 of this Code; and the County Executive shall recommend to the County Council those geographic areas which should be designated as limited priority for receiving additional assisted-family housing in the forthcoming year.

25B-8. Administrative rules.

The County Executive and each relevant agency may adopt, after public hearing, rules of procedure or executive regulations adopted under Method (2) of Section 2A-15 of this Code, necessary to administer the provisions of this law and to implement the County's adopted Housing Policy.

Sec. 29. Sections 26-21(g) and 26-22 of Chapter 26, title "Housing Standards", be and hereby are amended to read as follows:

26-21. Smoke detectors.

(g) Permits and fees. No smoke detectors or alternative system shall be directly connected (permanently wired) to the electrical system of the structure unless an electrical permit shall have first been obtained from the Department of Environmental Protection or the municipal electrical permit authority having jurisdiction. The County Executive is hereby authorized to adopt executive regulations, under Method (3) of Section 2A-15 of this Code, to adopt a fee schedule for the issuance of said permit which shall not exceed the cost of administration of this Section; further, the County Executive is authorized to waive, partially or wholly, the fee requirement at his/her discretion, or to issue multiple permits under the payment of a single fee.

26-22. Executive regulations.

The County Executive is hereby authorized to adopt regulations, under Method (2) of Section 2A-15 of this Code, to implement and administer the provisions of this Chapter and to create standards for materials and equipment.

Sec. 30. Sections 27-6(a)(7), 27-6A(c), 27-26D(a), 27-29(g) and 27-42(j) of Chapter 27, title "Human Relations and Civil Liberties", be and hereby are amended to read as follows:

27-6. Duties generally.

(a) The Commission on Human Relations shall have the power and it shall be its duty:

(7) To adopt such regulations under Method (2) of Section 2A-15 of this Code, as may be necessary to carry out the purposes and provisions of this Article; to keep a record of its hearings, activities and minutes of all meetings. The records and minutes shall be on file with the Executive Secretary of the Commission and open to the public at reasonable business hours upon request.

27-6A. Definitions generally.

For the purposes of this Article the following words and phrases shall have the meaning ascribed to them:

(c) Reasonable accommodation. The effort necessary to make suitable a working, recreational or living environment for a handicapped person without danger to any person's health or safety or without undue hardship or expense to a business or other activity making such accommodation. In rental housing, the landlord may impose special conditions upon a handicapped tenant, the purpose of which is to protect the health and safety of the tenant and other residents of the facility. Such conditions and agreement thereto by the tenant shall be in writing. The Commission shall provide by regulation, adopted under Method (2) of Section 2A-15 of this Code, a procedure by which those persons covered by the provisions of this Article may apply to the Human Relations Commission for a declaratory ruling as to whether or not a proposed accommodation is reasonable. The procedure for such declaratory ruling shall include all due process safeguards. Any person aggrieved by such ruling shall have the right to appeal to the Circuit Court for Montgomery County under the provisions of Maryland Rule B. Such an appeal shall also include full appellate review by the appeal courts of Maryland. The Commission may also prescribe by regulation, adopted under Method (2) of Section 2A-15 of this Code, guidelines under which pre-employment or pre-rental inquiries may be made of handicapped individuals, the purpose of which is to determine the

measures necessary to protect the health and safety of handicapped persons and others. Any inquiry so permitted shall not be used as a basis for discriminatory practices made unlawful by this Article; provided, however, the results of such inquiries may form the basis for a determination of reasonable accommodation.

27-26D. Alternative service; Anti-Hate/Violence Fund.

(a) Any civil monetary liability to Montgomery County imposed pursuant to this Division, upon a child or an adult, may be paid in kind by the performance of alternative community service, as provided by the County Executive by regulation adopted under Method (3) of Section 2A-15 of this Code.

27-29. Powers and duties generally.

The Commission shall have the power and it shall be its duty:

(g) To adopt, under Method (2) of Section 2A-15 of this Code, such regulations as may be necessary to carry out the purposes of this Article; to keep a record of its activities and minutes of all meetings; such records and minutes shall be on file and shall be open to the public at reasonable business hours upon request.

27-42. Powers and duties generally of Committee.

To accomplish the purposes for which the Community Action Agency is established, the Community Action Committee shall have the power to:

(j) Adopt, amend and repeal by-laws, and adopt regulations under Method (2) of Section 2A-15 of this Code governing the manner in which its activities may be conducted and the powers vested in it may be exercised;

Sec. 31. Sections 27A-4 and 27A-5(e) of Chapter 27A, title "Individual Water Supply and Sewage Disposal Systems", be and hereby are repealed and reenacted with amendments to read as follows:

27A-4. Regulations.

(a) The County Executive may adopt, under Method (2) of Section 2A-15 of this Code, written regulations for this Chapter.

(b) Following consultation with the Washington Suburban Sanitary Commission, the Montgomery County Planning Board and other concerned public agencies, the Director shall recommend regulations for the administration and enforcement of the provisions of this Chapter. The regulations shall be adopted under Method (3) of Section 2A-15 of this Code and shall include the

standards and requirements governing such things as the location, design, construction, maintenance, repair and operation of individual water supply systems; the pre-drilling of wells; the location, design, construction, maintenance, operation and scavenging of individual sewage disposal systems; the abandonment of wells; the protection of percolation test holes; and field and laboratory tests appurtenant to the foregoing.

27A-5. Permits.

(e) The County Executive shall adopt a schedule of fees, by executive regulation adopted under Method (3) of Section 2A-15 of this Code, which shall apply to the issuance of permits required hereunder; to other services such as special inspections, field testing, plans review, laboratory analyses; and to the issuance of permits for the collection, transport and disposal of solid and liquid wastes as required hereunder.

Sec. 32. Sections 29-10(a), 29-19, 29-28A(b)(3), and 29-49(a) of Chapter 29, title "Landlord-Tenant Relations", be and hereby are amended to read as follows:

29-10. Powers and duties generally.

In addition to any other power, duty or responsibility provided in this Chapter, the Commission shall have the following powers:

(a) The Commission may adopt regulations under Method (2) of Section 2A-15 of this Code, including provisions for notification under this Chapter, as it deems necessary to implement the provisions of this Chapter.

29-19. Fees.

An annual license fee per dwelling unit shall be established by the County Executive by written regulation, adopted under Method (3) of Section 2A-15 of this Code, in an amount sufficient to pay the costs incidental to the administration of this Chapter and to make this Chapter self-sustaining; provided, that no part of this fee shall be used for any costs of administering or providing financial assistance in connection with Section 29-28A of this Chapter relating to the transportation and storage of evicted tenants' chattels.

29-28A. Eviction - Removal, transportation and storage of evicted tenants' chattels.

(b) Transportation and storage of chattels at County's expense.

(3) The County Executive is authorized to provide, by written regulation adopted under Method (3) of Section 2A-15 of this Code, for financial assistance to tenants without sufficient financial means to reclaim their chattels from storage under the provisions of this subsection. The funds for such financial assistance shall be appropriated to the Office of

Landlord-Tenant Affairs and shall be made available by that Office in accordance with the procedures established by written regulation of the County Executive.

29-49. Administration, enforcement and penalties.

(a) The County Executive is authorized to adopt, under Method (2) of Section 2A-15 of this Code, such regulations as may be necessary to administer this Article properly.

Sec. 33. Section 29A-5(b)(9) of Chapter 29A, title "Legislative Oversight", be and hereby is amended to read as follows:

29A-5. Same - Responsibilities, powers and duties.

(b) Powers and duties. In addition to any other power, duty or responsibility provided in this Chapter, the Office shall have the following powers and duties:

(9) Develop uniform review and evaluation procedures, guidelines and regulations for the conduct and explanation of audits, surveys and investigations under this Chapter. Regulations that may be issued pursuant to

this Chapter shall be adopted under Method (2) of Section 2A-15 of this Code.

Sec. 34. Sections 30-2, 30-5, 30-8, 30-11 and 30-12 of Chapter 30, title "Licensing and Regulations Generally", be and hereby are amended to read as follows:

30-2. Picnics, dances, soirees and other entertainment - Authority to regulate, etc.

The fees for licenses issued under this Chapter shall be of such an amount as the County Executive by regulation, adopted under Method (3) of

Section 2A-15 of this Code, may set from time to time and shall not exceed the cost of administering this Chapter. The permit fee so fixed shall be submitted with the application and is not refundable in whole or in part. The County Executive is authorized to adopt such regulations, under Method (3) of

Section 2A-15 of this Code, in connection with such permit, license and fee, as are necessary to protect the public health, safety and welfare.

30-5. Public amusements, clubhouses, sanitariums, hospitals, etc. -- Generally.

(a) The Council is hereby empowered to prescribe by law for the licensing and regulation within the limits of the County any place of public amusement or recreation, pleasure parks, picnic grounds, clubhouses, theatrical exhibitions, baseball grounds, bowling alleys, billiard halls or poolrooms, camp-meeting grounds, graveyards, sanitariums, hospitals, homes for the aged, private educational institutions, orphan asylums, homes for children and convalescent homes, signs or signboards, roadside stands or establishments; and in order to safeguard the public health, safety, morals and welfare, to pass regulations for the purpose of carrying out the powers herein granted or to authorize the County Executive to issue regulations to implement any law; provided, that such regulations shall contain proper standards for the exercise of the discretion conferred herein and shall operate uniformly; provided further, that the power of the Council to license, regulate or limit clubhouses shall not apply to the clubhouses of country clubs which were in existence and operation on January 1, 1927 and which on that date had a public or private list of fifty or more bona fide members paying dues and which on that date maintained on the club premises at least two of the following athletic facilities for their membership:

- (1) A golf course of nine holes or more;
- (2) Two or more tennis courts; or
- (3) A swimming pool not less than forty feet in length and twenty feet in width.

(b) Any regulation adopted under this Section shall be adopted under Method (2) of Section 2A-15 of this Code.

30-8. Same - Regulations and licensing generally.

(a) The Council is hereby authorized to provide by law for the regulation and licensing of pawnbrokers and their activities, as it shall deem necessary to promote the public health, safety, morals and welfare of the community.



(b) Any regulation adopted under this Section shall be adopted under Method (3) of Section 2A-15 of this Code.

30-11. License fees generally.

The Council shall fix and enforce a uniform schedule of fees for licensing any class of business or enterprise as it may deem necessary, or the County Executive by regulation, adopted under Method (3) of Section 2A-15 of this Code, may establish such fees, not to exceed the reasonable costs of licensing and enforcement. All fees so determined shall be collected and paid over to the Director of Finance for the use of the County.

30-12. Alcoholic beverages - Consumption on public property.

The County Executive is hereby authorized to adopt regulations, under Method (3) of Section 2A-15 of this Code, governing the consumption of alcoholic beverages on "public property" as that phrase is defined in Article 2B, Section 210 of the Annotated Code of Maryland.

Sec. 35. Sections 30B-3, 30B-10, 30B-13 and 30B-15 of Chapter 30B, title "Massage Establishments and Massage Technicians", be and hereby are amended to read as follows:

30B-3. Administration; fees; regulations.

(a) The County Executive is hereby authorized to adopt regulations for the implementation of this Chapter under Method (3) of Section 2A-15 of this Code; specifically, he or she may authorize or require extensive background reviews for all applicants for licensure or registration under this Chapter, require from the applicant such background information as may be necessary to determine the fitness of the applicant for a license or registration, require applicants strictly to comply with all County and State health requirements as a condition subsequent to the issuance of a license or registration and may require such training programs for massage technicians as he or she deems necessary or reasonable.

(b) The County Executive, by executive regulation adopted under Method (3) of Section 2A-15 of this Code, is hereby authorized to adopt from time to time a schedule of fees, not to exceed the reasonable costs of administration of this Chapter.

(c) Exemptions.

(1) The County Executive may, by written regulation adopted under Method (3) of Section 2A-15 of this Code, specifically (by address) exempt any establishment from the requirements hereof if he or she finds:

a. That such establishment (or the users thereof) reasonably requires the administration of massages pursuant to a bona fide professional discipline for which State licensure is being sought.

b. That such establishment (or the users thereof) reasonably requires the administration of massages pursuant to a bona fide athletic or educational event or function.

Provided, however, that no exemption shall issue which is likely to contravene the purposes of this law.

(2) The County Executive may, by written regulation adopted under Method (3) of Section 2A-15 of this Code, specifically (by name) exempt any person from the requirements hereof if he or she finds:

a. That such person is reasonably required to administer massages pursuant to a professional discipline for which State licensure is being sought.

b. That such person is reasonably required to administer massages pursuant to a bona fide athletic or educational event or function.

Provided, however, that no exemption shall issue which is likely to contravene the purposes of this law.

30B-10. Application, fees and requirements.

Each application for massage establishment license shall be upon a form provided by the Director and accompanied by such licensure fees as are adopted by the County Executive in an executive regulation adopted under Method (3) of Section 2A-15 of this Code. Such forms shall contain all information as set forth in executive regulations adopted hereunder; these regulations may impose different requirements depending on whether the applicant is a person, partnership or corporation, and require reapplication upon any change in ownership.

30B-13. Minimum standards for massage establishments.

Massages must be administered either on the massage establishment's premises, or in the private residence of the patron. Where massages are

administered on the massage establishment's premises, it shall meet the minimum standards as set forth in the executive regulations adopted under Method (2) of Section 2A-15 of this Code. Where massages are to be administered off the premises, the office address of the massage establishment shall be the premises for which the license is granted.

30B-15. Application, fee and requirements.

Each application for a massage technician's registration shall be upon a form provided by the Director, and accompanied by such registration fees as are adopted by the County Executive in an executive regulation adopted under Method (3) of Section 2A-15 of this Code. Such form shall contain all information as set forth in the executive regulation adopted hereunder. No registration shall issue to a partnership, corporation, etc. or other than a named individual.

Sec. 36. Sections 31-2, 31-5(b), 31-6(a), 31-9(b), 31-10, 31-21(b), 31-23, 31-26, 31-29(b), 31-30(a), 31-31(b), 31-33(a), 31-46(b), 31-48(b)(g)(h), 31-51(a)(b), 31-52(e), 31-57(a), 31-58 and 31-62(c), of Chapter 31, title "Motor Vehicles and Traffic", be and hereby are amended to read as follows:

31-2. Authority of County Executive to erect traffic signs.

Whenever, in the judgment of the County Executive, it is necessary for the safety or control of vehicular or pedestrian traffic, he is authorized to provide, by executive order, for the erection of "stop," "speed limit" and other traffic control signs and devices on public streets, highways or other areas in the County; provided, that no such sign or device shall be erected on State highways without the approval of the State Highway Administration; and provided, that no such sign or device shall be erected at the cost of the County government in any incorporated town or special taxing area unless the Council has by resolution consented to the payment of such costs; and provided, that if the private owner of any land used by the general public shall cause to have erected "stop," "speed limit" or other traffic control signs or devices upon streets, highways and other areas within said private property said signs shall conform to the most recent edition of the "Manual on Uniform Traffic Control Devices for Streets and Highways" with regard to design, color, size and placement. The County Executive is authorized to

approve by executive order said traffic control signs and devices, which shall then have the same effect as those public traffic control signs and devices erected by the direction of the County Executive; provided, that all such signs and devices on private property shall be constructed, erected and maintained at the cost of the owner of said land.

31-5. Driving over curbs, sidewalks or drainage structures.

(b) Bicycles which are not motorized and special vehicles used by handicapped persons may be operated upon sidewalk areas and appurtenant drainage structures designed for pedestrian use except where, in the judgment of the County Executive, it is necessary for the safety or control of vehicular and pedestrian traffic to prohibit riding of such vehicles. Whenever any person is riding upon a sidewalk, such person shall give an audible signal and yield the right-of-way to any pedestrian. The County Executive may, by regulation adopted under Method (3) of Section 2A-15 of this Code, define "special vehicle" and "handicapped"; establish licensing requirements; and establish hours during which special vehicles may be operated upon sidewalk areas.

31-6. Snow and ice emergency traffic control.

(a) The County Executive is hereby authorized from time to time to designate, by executive order, important streets and highways of the County as snow emergency routes, which shall be marked by snow emergency route signs.

31-9. Impounding illegally parked vehicles, impeding traffic, etc.

(b) In any case involving the impoundment of a vehicle pursuant to this Section, an administrative cost not to exceed twenty-five dollars or such lesser amount as established from time to time by the County Executive by executive regulation adopted under Method (3) of Section 2A-15 of this Code, shall be charged to the owner of the vehicle in addition to all fines and penalties assessed pursuant to any violation of this Chapter plus any towing or storage charges incurred. All such fines, penalties, costs and charges shall be paid to the County or its agent before the owner may reclaim or secure the release of the vehicle.

31-10. Authority of County Executive to erect parking signs.

Whenever, in the judgment of the County Executive, it is necessary for the safety or control of vehicular traffic and parking or for pedestrian

safety, he is authorized to provide by executive order for the erection of "no stopping," "no standing," "no parking," and other parking control signs and devices on public streets, highways or other areas in the County; provided, that no such sign or device shall be erected on State highways without the approval of the State Highway Administration; and provided, that no such sign or device shall be erected at the cost of the County government in any incorporated town or special taxing area unless the Council has by resolution consented to the payment of such costs; and provided, that if the private owner of any land used by the general public shall cause to have erected "no stopping," "no standing," "no parking" or other parking control signs or devices upon streets, highways, and other areas within said private property, said signs shall conform to the most recent edition of the "Manual on Uniform Traffic Control Devices for Streets and Highways" with regard to design, color, size and placement. The County Executive is authorized to approve by executive order said parking control signs and devices which shall then have the same effect as those public parking control signs and devices erected by the direction of the County Executive; provided, that all such signs and devices on private property shall be constructed, erected and maintained at the cost of the owner of the land.

31-21. Impounding illegally parked vehicles.

(b) In any case involving the impoundment of a vehicle pursuant to this Section, an administrative cost not to exceed twenty-five dollars or such lesser amount as established from time to time by the County Executive, by executive regulation adopted under Method (3) of Section 2A-15 of this Code, shall be charged to the owner of the vehicle in addition to all outstanding fines and penalties assessed pursuant to violations of this Article plus any towing or storage charges incurred.

31-23. Authority of County Executive or his designee to regulate by signs.

(a) The County Executive or his designee is hereby authorized, by executive order in the form of traffic orders, to regulate parking of vehicles on County property by the erection of official signs conforming to the regulations regarding signs posted on public streets and highways, and

conforming in design, color, size and placement to the standards established in the most recent edition of the "Manual on Uniform Traffic Control Devices for Streets and Highways."

(b) All parking signs erected on any privately owned parking lot within the County shall conform to the regulations regarding signs posted on public streets, highways or other areas in the County, and conform in design, color, size and placement to the standards established in the most recent edition of the "Manual on Uniform Traffic Control Devices for Streets and Highways." The County Executive or his designee may provide, by executive order in the form of traffic orders, for the erection of official signs regulating parking on any privately owned parking facility within the County, which parking facility is open to and used by members of the general public for parking in connection with retail commercial establishments, or other businesses to which the parking facility is appurtenant. Any traffic orders issued under this Section may require that the owner, tenant or employees of retail or commercial establishments furnish evidence necessary for the enforcement of such order.

#### 31-26. Parking regulations--Public parking facilities.

(a) Except temporarily for the purpose of and while actually engaged in loading or unloading passengers or for emergency repairs when the vehicle cannot be driven, no person shall park any vehicle on a public parking facility:

\* \* \*

(6) For a period longer than twenty-four hours, except when otherwise authorized by executive order.

\* \* \*

#### 31-29. Uses prohibited.

(b) Notwithstanding the provisions of subsection (a) above, the County Executive shall establish, by regulation adopted under Method (3) of Section 2A-15 of this Code, procedures for the issuance of written permits for the use of County owned or leased and operated parking facilities for storage and off-street parking purposes under the following conditions:

(1) Storage or parking restricted to areas of such facilities as directed by the Department of Transportation.

(2) Vehicle operation and parking within such facilities fully in accordance with County regulations including the observance of posted regulations and appropriate parking meter fees.

(3) The term of such permits not to exceed one year and providing not less than thirty days' notice of termination or suspension upon a finding that such action is necessary to carry out the purposes of the public parking district provisions of this Code or shorter notice upon occasion of emergency repairs, demolition or other public exigency.

(4) Establishment of a permit fee schedule sufficient, when considered with the parking meter fee, to cover the operating cost and amortized capital costs of the space involved.

31-30. Snow and ice emergency.

(a) The County Executive is hereby authorized from time to time to designate, by executive order, important public parking facilities of the County, or areas thereof, as snow emergency lots which shall be marked by snow emergency lot signs.

31-31. Impounding illegally parked vehicles.

(b) In any case involving the impoundment of a vehicle pursuant to this Section, an administrative cost not to exceed twenty-five dollars, or such lesser amount as established from time to time by the County Executive by executive regulation adopted under Method (3) of Section 2A-15 of this Code, shall be charged to the owner of the vehicle in addition to all outstanding fines and penalties assessed pursuant to violations of this Article plus any towing or storage charges incurred.

31-33. Authority of County Executive, establish fees, time limits, etc.

(a) Parking meters.

(1) The County Executive is hereby authorized to provide by executive order for the installation, maintenance and operation of parking meters along, and limiting the time motor vehicles may park on, the streets, highways and alleys located throughout the County and on public parking facilities acquired by or leased to and operated by the County, by use of parking meters or otherwise; and,

(2) The County Executive may adopt regulations under Method (3) of Section 2A-15 of this Code to prescribe parking meter or other fees for parking on such parking facilities, streets, highways, alleys.

(3) After the adoption of such regulations, the County may purchase, install, maintain, and operate any such parking meters on all streets, highways, alleys and public parking facilities in accordance with the executive order issued under paragraph (1) of this subsection, provided that the location thereof is approved by the County Executive.

31-46. Impounding illegally parked vehicles.

(b) In any case involving the impoundment of a vehicle pursuant to this Section, an administrative cost not to exceed twenty-five dollars, or as shall be established from time to time by the County Executive by executive regulation adopted under Method (3) of Section 2A-15 of this Code, shall be charged to the owner of the vehicle in addition to all outstanding fines and penalties assessed pursuant to violations of this Article plus any towing and storage charges incurred as a result of impoundment. All such fines, penalties, costs and charges shall be paid to the County or its agent before the owner or operator may reclaim or secure the release of the vehicle.

31-48. Parking permit areas.

(b) The County Executive is hereby authorized to designate, by executive order, roads, streets and other areas within the County in which the parking of vehicles may be restricted, in whole or in part, during certain specified times, to holders of valid parking permits issued pursuant to this Section. The County Executive shall consider the institution of a parking permit system upon petition by the residents of a given area. The authority granted herein shall be in addition to, and may be exercised in conjunction with, any other authority the County Executive may have to regulate the times and conditions of motor vehicle parking.

(g) The County Executive is authorized to establish written regulations adopted under Method (2) of Section 2A-15 of this Code to implement the provisions of this Section.

(h) The County Executive is authorized to establish, by written regulation adopted under Method (3) of Section 2A-15 of this Code, a parking permit fee for permits issued pursuant to this Section in an amount sufficient to pay the cost incidental to the issuance of permits authorized by this Section.

31-51. Authority of County Executive to administer and enforce Chapter, establish and collect fines.



THE COUNTY OF MONTGOMERY, MARYLAND

Pursuant to the provisions of State law, the County Executive is hereby

authorized and empowered:

(a) To establish by written regulation adopted under Method (3) of

Section 2A-15 of this Code, after review by the District Court of Maryland for

Montgomery County, a schedule of fines or other penalties for violations of

the provisions or regulations of this Chapter, such fines and penalties not to

exceed that which may be imposed for a Class A violation as set forth in

Section 1-19 of Chapter 1 of the County Code.

(b) To adopt regulations, under Method (3) of Section 2A-15 of this

Code, as he may deem necessary or proper for the collection by the Department

of Finance of the County of all such fines, penalties, costs and other charges

imposed by this Chapter and to define any term used in connection with the

collection of said fines, penalties, costs and other charges.

31-52. Duty and responsibility of the Department of Finance.

(e) The Director of Finance may, in accordance with the procedures

prescribed by the State Motor Vehicle Administration and State law, give or

cause to be given notice to said administration of all vehicles registered by

the State, and the subject of any outstanding and past due parking violation of

this Code, and request that the administration refuse registration or transfer

of registration of the subject vehicle, until notified by the County that said

violation has been satisfied.

In such cases, the Director of Finance may impose an additional cost of

ten dollars, or as may be otherwise established from time to time by the

County Executive by executive regulation adopted under Method (3) of Section

2A-15 of this Code, for each registration withheld; and the owner of the

vehicle shall be subject to payment of such costs, and all other fines,

penalties and charges before notice is given to the administration that the

subject violation has been satisfied and the registration is released.

31-57. Failure to pay or comply; penalty in addition to fine.

(a) In the event said owner or operator fails to comply with the

preceding Sections and the instructions provided on a notice of violation

within the period prescribed by this Article, the fine for such violation

shall be increased by an additional penalty not to exceed ten dollars, or as

shall otherwise be established from time to time by written regulation of the

County Executive adopted under Method (3) of Section 2A-15 of this Code.

31-58. Dishonored check charges.

Whenever any check or draft tendered to the County in payment of any fine, penalty, cost or other charge as provided in this Chapter is dishonored by a bank or otherwise returned as uncollectible, a charge of ten dollars, or as may be otherwise established from time to time by the County Executive by executive regulation adopted under Method (3) of Section 2A-15 of this Code, may be imposed and added to the amount due in order to defray the cost of its collection. In such cases, the County may require that the total amount due be paid in the form of a certified check or money order.

31-62. Impounding or immobilizing vehicles after enumerated violations generally.

(c) In any case involving the impoundment or immobilization of a vehicle pursuant to this Section, an administrative cost not to exceed twenty-five dollars, or such lesser amount as established from time to time by the County Executive by executive regulation adopted under Method (3) of Section 2A-15 of this Code, shall be charged to the owner or operator of the vehicle in addition to all outstanding fines and penalties assessed pursuant to violations of this Chapter plus any towing and storage costs incurred. All such fines, penalties, cost and charges shall be paid to the County before the owner may reclaim or secure the release of the vehicle.

Sec. 37. Sections 31A-3(a), 31A-4(b) and 31A-8 of Chapter 31A, title "Motor Vehicle Repair and Towing Registration" be and hereby are amended to read as follows:

31A-3. Application fee.

(a) Any person, firm or corporation desiring to be engaged in business to repair, maintain or tow motor vehicles or install, repair or maintain motor vehicle equipment in the County shall register on the form provided by the County. Each application filed shall be accompanied by an application fee in the amount established by the County Executive by written regulation adopted under Method (3) of Section 2A-15 of this Code. The County Executive shall establish a sliding scale for such fees based on the number of employees engaged in repair work and with incentive to participate in voluntary certification through the National Institute for Automotive Service

Excellence. This provision shall not be construed to require the registration of employees.

**31A-4. Certificate - Issuance; term; renewal; display.**

(b) Registration certificates issued pursuant to this Chapter shall be valid for an initial period of one year from date of issuance; renewal certificates shall be valid for a period of three years. Applicants for renewal shall make application therefor at least thirty days prior to the expiration of their registration and pay such fee as is established by the County Executive by written regulation adopted under Method (3) of Section 2A-15 of this Code.

**31A-8. Adoption of additional regulations.**

The County Executive is hereby authorized to adopt, under Method (2) of Section 2A-15 of this Code, written regulations necessary for the implementation of the provisions of this Chapter.

Sec. 38. Sections 31B-3(d) and (e), 31B-10, 31B-12 and 31B-13 of Chapter 31B, title "Noise Control", be and hereby are amended to read as follows:

**31B-3. Administration of Chapter**

(d) Within six months after the effective date of this Chapter, the County Executive, with the advice and assistance of the Director, the Noise Control Advisory Board and other appropriate governmental agencies, shall establish in writing the following:

(1) Regulations to be used in measuring noise levels set forth in this Chapter.

(2) Such other noise control regulations and standards as the County Executive, with the advice and assistance of the Director and the Noise Control Advisory Board, may deem necessary and proper to accomplish the purposes and intent of this Chapter including when appropriate, rules, regulations or standards adopted by the State or Federal government as well as regulations or standards revising the noise limits set forth in this Chapter, if such revisions are deemed necessary.

(3) Any such regulation or standard shall be established by the County Executive, by executive regulation adopted under Method (3) of Section 2A-15 of this Code, only after the County Executive or his designee, after

LS-2A LAW FILE

reasonable notice to the public, shall have conducted a public hearing, at which hearing all interested persons shall be given an opportunity to testify and to submit alternative proposals for consideration. In no case shall such regulation or standard become effective prior to October 1, 1976.

(e) (1) Within six months after the effective date of this Chapter,

the County Executive, with the advice and assistance of the Director and the Noise Control Advisory Board, shall propose regulations, including standards,

for the control of noise due to construction, repair or demolition of structures or facilities within eight hundred feet of occupied residential

uses, or within four hundred feet of occupied commercial uses.

(2) Any regulation adopted under this subsection shall be adopted

under Method (2) of Section 2A-15 of this Code.

31B-10. Noise sensitive areas.

Whenever the protection of the public health, safety and welfare so

require, the County Executive, with the advice of the Director and the Noise

Control Advisory Board, may designate, in executive regulations adopted under

Method (2) of Section 2A-15 of this Code, any geographical area of the County

as a noise sensitive area in which certain noise producing activities may be

prohibited effective October 1, 1976. Such designation shall include a

description of the subject area by reference to named streets, the reasons for

determination as a noise sensitive area and a list of those activities which,

if undertaken in such area, would constitute unnecessary noise. Such

designation may be limited to specified times or days of the week. In cases

where the limitations imposed by executive regulation, adopted under authority

granted herein, are more stringent than those prescribed by restrictions

within this Chapter, such regulations shall control within such noise

sensitive areas.

31B-12. Temporary exemptions.

The Director is hereby authorized to grant a temporary exemption from

the maximum permissible sound levels established by this Chapter if such

temporary exemption would be in the public interest. An application for a

temporary exemption shall be accompanied by a fee determined by written

regulation of the County Executive, adopted under Method (3) of Section 2A-15

of this Code, in an amount sufficient to defray the administrative costs of

processing the application. Upon receipt of an application for a temporary exemption, the Director shall give public notice of the application and the fact that any adversely affected party may request a public hearing on the application. A temporary exemption must be in writing, signed by the Director or his appointed representative and must set forth the name of the party to whom the exemption is granted, the description and location of the property for which the exemption is authorized, the maximum sound level permitted and the period of time during which the exemption shall be effective and any other conditions or qualifications deemed necessary for the protection of the public. A temporary exemption shall be granted only for a reasonable period of time in view of all the facts and circumstances. A temporary exemption shall not be renewable and shall not be granted more than three times in any one calendar year with respect to a given property and location. In no case shall the holder of a temporary exemption be authorized to exceed the maximum permissible sound levels established by this Chapter by more than 25 dB(A).

### 31B-13. Special exemptions.

In addition to temporary exemptions provided for in Section 31B-12 of this Chapter, the Director is hereby authorized to grant a special exemption from compliance with any or all of the requirements of this Chapter in the event of hardship or if such exemption would otherwise be in the public interest. An application for a special exemption shall be accompanied by a fee, determined by written regulation of the County Executive, adopted under Method (3) of Section 2A-15 of this Code, in an amount sufficient to defray the administrative costs of processing the application. Upon receipt of an application for a special exemption, the Director shall give public notice of the application and the fact that any adversely affected party may request a public hearing on the application.

Sec. 39. Sections 33-3(b), 33-7(b), 33-9(a), 33-12(b), 33-13, 33-13A(d), 33-19(b), 33-47(b), 33-77 and 33-86(g) and (j) of Chapter 33, title "Personnel", be and hereby are amended to read as follows:

33-3. Continuation and administration of Merit System.

(b) The Merit System shall be administered by the Chief Administrative Officer, under the direction of the County Executive, and shall be governed by and subject to the provisions of the Charter for Montgomery County, Maryland,

1978, as amended, provisions of this Chapter, and the personnel regulations adopted by the County Executive under Method (1) of Section 2A-15 of this Code.

33-7. County Executive and Merit System Protection Board responsibilities.

(b) Personnel regulations. The County Executive shall adopt personnel regulations under Method (1) of Section 2A-15 of this Code.

The personnel regulations shall provide the framework for:

- (1) The classification of all Merit System positions in the executive and legislative branches;
- (2) Minimum qualifications for Merit System positions, methods of determining qualifications and methods of selection for any positions;
- (3) Probationary periods, promotions, transfers;
- (4) Causes for removal from any Merit System position and methods of removal, including demotions, furloughs and reduction of staff;
- (5) Annual, sick and other leave;
- (6) Prohibitions against political activity;
- (7) Maintenance of personnel records; and
- (8) Similar personnel matters as may be provided by law.

33-9. Equal employment opportunity and affirmative action.

(a) Policy. The County's policy shall be to take all personnel actions on the basis of merit and fitness without regard to political affiliation or non-merit factors, and without regard to other factors as may be provided for in Chapter 27 "Human Relations and Civil Liberties" such as sex, marital status, race, religion, national origin, age or handicap. The Chief Administrative Officer shall be responsible for initiating, developing and maintaining such an equal employment opportunity and affirmative action program as necessary to insure all persons an equal opportunity to enter and progress in the County's service on the basis of open competition and demonstrated ability. The County Executive is authorized to issue such regulations, adopted under Method (1) of Section 2A-15 of this Code, as necessary to implement this policy. Such regulations shall provide that an employee whose personal religious beliefs require the abstention from work during certain periods of time may elect to engage in an alternate work schedule in order to meet those religious requirements. The regulation shall include provision for any employee who elects to work an alternate schedule to

be obligated to work an equal period of time to that taken off for such religious reasons.

33-12. Appeals of disciplinary actions; grievance procedures.

(b) Grievances. A grievance is a formal complaint arising out of a misunderstanding or disagreement between a Merit System employee and supervisor with reference to a term or condition of employment. The determination of the Board as to what constitutes a term or condition of employment shall be final. Grievances do not include the following: classification allocations, except due process violations; failure to reemploy a probationary employee; or other employment matters for which another forum is available to provide relief or the Board determines are not suitable matters for the grievance resolution process. A grievance shall include termination by resignation which is found by the Board to have been submitted under circumstances which cause the resignation to be involuntary; in the event of such a finding, the Board shall require the appointing authority to substantiate the termination as in the case of a removal. The County Executive shall prescribe, in the personnel regulations adopted under Method (1) of Section 2A-15 of this Code, procedures which seek to secure at the lowest possible level a fair, prompt and mutually satisfactory resolution to grievance. In providing these procedures, the County Executive shall ensure that any grievance based upon an alleged improper application of a Merit System law or regulation concerning a disputed issue of fact is entitled to resolution after a fact-finding inquiry authorized by the Board. Grievances based upon an alleged improper interpretation of Merit System laws or regulations do not require a hearing during the grievance resolution process.

33-13. Appeal procedures.

The County Executive shall prescribe by personnel regulations, adopted under Method (1) of Section 2A-15 of this Code, procedures covering appeals, including grievances which shall include the time limit for filing such appeal, the granting of administrative leave pending appeal, filing and cost of the administrative record, conduct of hearings, requirements for written notice, special evidentiary proceedings in cases where the remedy of employee reinstatement was a contested and unresolved issue in an ordinary appeal hearing and provisions for summary actions by the Board.

33-13A. Audits, investigations and inquiries.

(d) Designate, with the approval of the Council, an alternate special personnel investigator for matters in which he has a conflict of interest or is otherwise unable to pursue.

The special personnel investigator shall be appointed by the County Council for a term of five years, or until his successor is appointed and qualified, subject to removal at the pleasure of the Council and upon the vote of five members of the Council; shall have experience in law or personnel matters; shall be paid a per diem fee as set forth by contract with the County; and shall be reimbursed for necessary expenses.

When an audit, investigation or inquiry gives the Board cause to believe that the Merit System has not been administered in accordance with the provisions of this Chapter or regulations promulgated pursuant thereto, the Board may refer the matter to an appropriate investigative entity, including the special personnel investigator, at the Board's option. Where a complaint is filed by the special personnel investigator, or on its own motion, the Board may hold a hearing and issue a decision ordering such corrective action as it determines to be necessary, including those remedies provided in Section 33-14(c). Where the Board holds a hearing on its own motion, the Board's staff or the special personnel investigator shall be the charging party. In any hearing, the responding party shall include all individuals who may be adversely affected. All investigatory proceedings under this Section shall include due process protections consistent with the purposes of this Chapter and procedures shall be included in the personnel regulations adopted under Method (1) of Section 2A-15 of this Code, which specify these protections in further detail. Nothing herein shall be construed to prohibit the Board from initiating and acting upon audits, investigations or inquiries until such regulations are adopted.

33-18. Deduction for child support.

(g) Director's duties

The Director, upon receipt of the Clerk's determination shall, unless contrary to law, court rule, or the provisions of a collectively bargained agreement, deduct the specified amount from the paycheck of the payor and transfer same to the Clerk. The Clerk shall then forward the amount



of the payment directly to the payee. The Director may also deduct from the amount of the support payment, a fee, established by executive regulation by the County Executive adopted under Method (3) of Section 2A-15 of this Code,

not to exceed the reasonable costs of implementing the determination of the Clerk.

(j) Executive regulations.

The County Executive is authorized to adopt Regulations, under

Method (1) of Section 2A-15 of this Code, for the implementation of the provisions of this Section.

33-19. Day care as alternative fringe benefit.

(b) The County Executive shall adopt executive regulations under

Method (1) of Section 2A-15 of this Code for the implementation of this Section. These regulations shall assure that the County's dependent care assistance plan is in conformance with United States Internal Revenue Service requirements.

33-47. Administration by Chief Administrative Officer.

(b) Regulations for administration. The County Executive shall

establish regulations, adopted under Method (1) of Section 2A-15 of this Code, for the administration of the retirement system, within the limitations of this Article. The Chief Administrative Officer may engage actuarial and other services and incur expenses as required to transact the business of the retirement system.

33-77. Permanent umpire.

(a) There is hereby created the position of Permanent Umpire, so as to

provide for the effective implementation and administration of Sections 33-79 and 33-82 of this Article concerning selection, certification and decertification procedures and prohibited practices. The Permanent Umpire

shall exercise the following powers and perform the following duties and functions:

(1) Adopt regulations under Method (1) of Section 2A-15 of this

Code, for the implementation and administration of Sections 33-79 and 33-82 as are consistent with this Article;

Sec. 40. Sections 35-3(c), 35-13A and 35-14(e) of Chapter 35, title "Police", be and hereby are amended to read as follows:

35-3. Same - Powers and duties.

(c) Adoption of regulations, orders, etc., generally. The Director of Police shall adopt, under Method (2) of Section 2A-15 of this Code, all regulations for the County which pertain to the work of the Department of Police. The Director shall issue such additional instructions and adopt such orders, and administrative procedures, not inconsistent with law, as deemed proper in the exercise of the functions of chief executive officer of the Department of Police.

35-13A. Anti-Hate/Violence Fund.

(a) There is created within the Department of Police the Anti-Hate/Violence Fund, to be administered and applied pursuant to regulations adopted by the County Executive under Method (2) of Section 2A-15 of this Code, in exchange for information leading to the arrest or apprehension for commission within Montgomery County of any act described in Section 27-26A of the County Code or proscribed by Sections 10A or 111 of Article 27, Annotated Code of Maryland.

35-14. Generally

(e) The County Merit System Protection Board may adopt regulations within the limitations of this Article and the Employees' Retirement System Ordinance contained in Chapter 33 of this Code to govern the implementation of the provisions of the police relief and retirement fund. These regulations shall be adopted under Method (3) of Section 2A-15 of this Code and shall be made in appendant of the Personnel Regulations.

Sec. 41. Sections 38A-4 and 38A-11 of Chapter 38A, title "Radio, Television and Electrical Appliance Installation and Repair", be and hereby are amended to read as follows:

38A-4. Same - Issuance; bond.

The Director shall issue a certificate of registration to applicants qualified pursuant to Section 38A-3, upon payment of the registration fee established by executive regulation adopted by the County Executive under Method (3) Section 2A-15 of this Code, and upon delivery to the County of a cash bond or a corporate bond executed by a surety company qualified to

transact business in the State in the amount of two thousand dollars. The cash or corporate bond shall be conditioned upon the registrant's performing

all work done for consumers in the County in accordance with this Code and laws of the County and State and shall provide that the County or any person damaged by failure of the registrant to comply with such Code and laws may proceed against such bond in any court of competent jurisdiction.

The Director shall immediately revoke the certificate of registration upon failure of any registrant to maintain such bond.  
38A-11. Adoption of regulations.

The County Executive is hereby authorized to adopt, under Method (2) of

Section 2A-15 of this Code, written regulations necessary for the implementation of the provisions of this Chapter, following public hearing on reasonable notice.

Sec. 42. Section 39-7 of Chapter 39, title "Rat Control", be and hereby is amended to read as follows:  
39-7. Regulations.

The County Executive is hereby authorized to adopt, under Method (2), of Section 2A-15 of this Code, and enforce such regulations as he may from

time to time find necessary to adopt to carry out the purposes of this Chapter to protect the public health, safety and welfare.

Sec. 43. Sections 41-4 and 41-23(a) of Chapter 41, title "Recreation and Recreation Facilities", be and hereby are amended to read as follows:  
41-4. Adoption of rules and regulations.

In order to carry out the objectives of this Chapter, the County Executive is hereby authorized to adopt and amend, from time to time, regulations, under Method (2) of Section 2A-15 of this Code, for the government and use of all land, buildings and other recreational facilities

acquired or constructed by or committed to the care or supervision of the County hereunder. Such regulations may include provisions limiting the use of any such recreational facility for reasons of health, safety, comfort or morals; for fees for the use of any such facility or service in connection therewith, provided, that such fees shall not exceed the cost of providing the same; for the issuance of permits by the Director of Recreation to individuals or groups of individuals for the use of any such facility, which permits may

grant exclusive use thereof or limit the permittee to a particular area or facility.

41-23. Same -- Officers; committees; by-laws; meetings; quorum; compensation of members.

(a) The chairperson of the County Recreation Board shall be elected by the membership annually. The County Recreation Board is authorized to elect other officers, to establish committees of its members and to adopt by-laws and adopt regulations, under Method (2) of Section 2A-15 of this Code, for the conduct of its affairs as it deems desirable.

Sec. 44. Sections 41A-2(a), 41A-3(c) and (e), 41A-7(a), 41A-9(a) and 41A-12 of Chapter 41A, title "Rent Supplement and Assistance Programs", be and hereby are amended to read as follows:

41A-2. Eligibility for rent supplement.

(a) Rent supplement for tenants in the form of grants authorized under this Chapter may be allowed to any tenant who meets the following conditions:

\* \* \*

(4) The combined gross income shall not exceed an income limit specified by executive regulation, adopted by the County Executive under Method (1) of Section 2A-15 of this Code; however, incomes in excess of the income limit shall be entitled to a partial rent supplement as specified in paragraph 41A-3(c).

41A-3. Rent supplement amount, calculation, method of payment, regulations.

(c) The amount of the rent supplement shall be three percentum (3%) of the difference between a calculation base specified by executive regulation, adopted under Method (1) of Section 2A-15 of this Code, and the combined gross income. When the combined gross income exceeds the income limit, the rent supplement amount calculated under the above formula shall be reduced by 25% of the excess of such income above the income limit.

(e) The County Executive may adopt regulations, under Method (1) of Section 2A-15 of this Code, necessary to administer this Chapter.

41A-7. Rental assistance program for handicapped persons needing supporting services.

(a) Purpose. The purpose of this Article is to provide rental assistance to handicapped persons needing supporting services, such persons

being unable to live independently of such services, and whose income meets requirements established by the County Executive by regulations adopted under Method (1) of Section 2A-15 of this Code.

41A-9. Eligibility for rental assistance.

Eligibility for rental assistance under this Article shall extend to those handicapped persons who:

(a) Meet the income requirements of regulations adopted by the County Executive under Method (1) of Section 2A-15 of this Code; and

41A-12. Amount of rental assistance.

The amount of rental assistance hereunder shall be calculated on a monthly basis by adjusting the recipient's monthly gross income by subtracting any medical expenses allowed under the executive regulations and multiplying the difference by 25% and then subtracting the product from the recipient's actual monthly rent. In no event can the combined total of the monthly rental assistance payment and the recipient's monthly share of the rent exceed \$200.00 per individual per month. The monetary figure mentioned above shall be reviewed annually and modified, if necessary, by regulation adopted by the County Executive under Method (1) of Section 2A-15 of this Code.

Sec. 45. Sections 44-3(a)(5) and 44-22 of Chapter 44, title "Schools and Camps", be and hereby are amended to read as follows:

44-3. Interagency Coordinating Board.

(a) There is hereby established the Interagency Coordinating Board for Community Educational Services, the principal responsibility of which shall be to review and coordinate the activities conducted under this Article. This responsibility shall include:

(5) Adopt regulations, under Method (2) of Section 2A-15 of this Code, as may be necessary to implement the requirements of this Act; and

44-22. License fees.

Annual fees for licenses issued under this Division shall be of such an amount as the County Executive, by regulation adopted under Method (3) of Section 2A-15 of this Code, may set from time to time. The fees shall not exceed the cost of inspection and issuing the permits for the various establishments regulated by this Chapter. The permit fee so fixed shall be submitted with the application and is not refundable in whole or in part

unless the application is withdrawn prior to an inspection of the premises by the Director of the Department or his/her authorized agent. If the application is withdrawn prior to the inspection, the entire permit fee shall be refunded.

Sec. 45A. Sections 44A-3(b), 44A-4(c), 44A-5, 44A-8(b) and (c), 44A-9, 44A-11(b) and 44A-16 of Chapter 44A, title "Secondhand Personal Property" of the Montgomery County Code 1972, as amended, be and hereby are amended to read as follows:

44A-3. Required books and records.

(b) A dealer shall cause a written record, in the English language, to be made of each transaction involving a purchase, acquisition or receipt by or on behalf of the dealer of secondhand personal property at the time of the transaction. Each transaction shall be recorded in a format specified by executive regulation, adopted under Method (3) of Section 2A-15 of this Code, and shall contain the following information:

\* \* \*

44A-4. Retention of secondhand personal property:

(c) The requirements of subsections (a) and (b) shall not be applicable to any secondhand personal property which has been inspected and received written clearance for earlier disposition by the Director or his designee in accordance with regulations adopted by the County Executive under Method (3) of Section 2A-15 of this Code.

44A-5. Exemption for certain dealers.

The County Executive may, by regulation adopted under Method (3) of Section 2A-15 of this Code, modify or eliminate the licensing, holding, recordkeeping or reporting requirements of this Chapter as they pertain to dealers who derive less than 10% of their gross personal property sales from the sale of secondhand personal property.

44A-8. Application for license; license fee.

(b) The annual license fee for each license shall be established by the County Executive, by written regulation adopted under Method (3) of Section 2A-15 of this Code, in an amount not to exceed the estimated costs of administering and enforcing this Chapter.

(c) Each application for a dealer's license shall contain a statement that the applicant authorizes the Montgomery County Department of Police or other police departments having jurisdiction to inspect the books, records, inventory and premises of the business during normal business hours, and a statement that the dealer agrees to pay for the purchase of any secondhand personal property by check and not to cash any such check, except as permitted by executive regulation adopted under Method (3) of Section 2A-15 of this Code.

44A-9. Payments by check.

A dealer must pay for the purchase of all secondhand personal property by check, except as permitted by executive regulation adopted under Method (3) of Section 2A-15 of this Code.

44A-11. Expiration and renewal of license; prohibition on transfer.

(b) A license issued under this Chapter may be renewed on application and payment of a fee established by the County Executive by regulation adopted under Method (3) of Section 2A-15 of this Code, which shall not exceed the estimated costs of administration and enforcement.

44A-16. Regulations; restitution.

The County Executive shall adopt under Method (2) of Section 2A-15 of this Code, reasonable and necessary regulations for the implementation and administration of this Chapter. These regulations may include provisions providing for the County to, and the County may, obtain restitution on behalf of an injured party.

Sec. 46. Sections 47-13 and 47-22 of Chapter 47, title "Solicitors, Hawkers and Peddlers", be and hereby are amended to read as follows:

47-13. License - Fee; issuance; contents.

A fee to cover the cost of investigating the applicant for a license and processing of the application under this Article shall be paid to the County when the application is filed, and shall not be returnable under any circumstances. The County Executive may from time to time, by executive regulation adopted under Method (3) of Section 2A-15 of this Code, change such fee to an amount not to exceed the reasonable costs of licensing and enforcement under this Article. Unless, after investigation, the Director finds that the applicant has not complied with this Article or is not of good moral character, he/she shall issue a license upon the posting of the bond as

provided in the preceding Section which shall show the name and address of the solicitor and the date of issuance and expiration of the license, and one of the photographs submitted by the solicitor shall be attached to the license.

No license shall be issued to any holder of a license issued under this Article within one year of a revocation. In determining good moral character, the reputation of the applicant, his criminal record, if any, and license history in this or other jurisdictions shall be considered. Emphasis in reaching a decision on moral character shall be given to any convictions for crimes of violence, sex offenses, violations of the gaming, narcotic, alcoholic beverage laws and fraud. No person shall be denied a license solely on the grounds of previous convictions or penal servitude, if, in fact, his record, conduct and habits for a period of three years after conviction or release from penal servitude, whichever is later, indicate that he is a proper person to be licensed under the standards of this Article.

47-22. Same - Fee; license year.

For each license required by the preceding Section, each person shall pay a fee which shall be established and may be revised from time to time by the County Executive by written regulations adopted under Method (3) of Section 2A-15 of this Code in an amount not to exceed the reasonable costs of administration and enforcement of this Article. The fee schedule shall provide for a license fee for different periods of time up to one year.

Sec. 47. Sections 48-6, 48-26, 48-29(d) and 48-32(a) of Chapter 48, title "Solid Wastes", be and hereby are amended to read as follows:

48-6. Regulations for collection or disposal.

Collection or disposal of solid waste shall be in accordance with such regulations, which may include the imposition of reasonable fees to cover the cost of inspection and licensing, as the County Executive shall, from time to time, adopt under Method (2) of Section 2A-15 of this Code; provided, that no incorporated town or special taxing area shall be required to pay any fees for inspection and licensing.

48-26. Same - Fees.

Permit or license fees under this Chapter shall be fixed annually by executive regulation adopted by the County Executive under Method (3) of Section 2A-15 of this Code. The fees shall not exceed the cost of inspection,



licensing and enforcement of this Chapter.

48-29. Solid waste collection districts.

(d) The County Executive shall fix charges annually, for solid waste collection and disposal services, so as to coincide in time with the fixing of the annual real property tax rates; such charges shall correspond as closely as practicable to the actual cost to the County to perform such services; provided, that if such collection or disposal charges, together with manner of collection, are prescribed by law, the charges and manner of collection established by such law shall prevail. The County Executive is authorized to adopt under Method (3) of Section 2A-15 of this Code, all necessary regulations for the implementation and enforcement of this Chapter, which regulations shall have the force and effect of law.

48-32. Imposition; amount; exemptions.

(a) A base solid waste disposal charge is herein established at a fixed rate per ton, to be determined by resolution of the County Council, for any and all types of disposable refuse delivered by any person or agency, public or private, to the County solid waste acceptance facilities. The County Executive is authorized, by written regulation adopted under Method (2) of Section 2A-15 of this Code, to provide for a charge different from the base solid waste charge for any particular type of disposable refuse which has a cost of disposal different from the base solid waste charge or for which any other jurisdiction in the metropolitan Washington, D.C., area is charging more than the base charge of the County. The Council may, by resolution, after considering any recommendations from the County Executive, change such base rate, following notice and a public hearing on such a change; the effective date of any change in the base solid waste disposal charge shall provide adequate time to allow public and private agencies and organizations to make necessary billing adjustments.

Sec. 48. Sections 49-1, 49-4, 49-7, 49-23(a), 49-27, 49-33, 49-33A(c), 49-36, 49-38(b), (c) and (g), 49-40(e), 49-68A and 49-75 of Chapter 49, title "Streets and Roads", be and hereby are amended to read as follows:

49-1. Regulations and ordinances - Authority to adopt, etc.

The County Council is hereby authorized to adopt, and from time to time change and amend, any and all necessary and reasonable regulations and

ordinances governing the proper use, care, construction, reconstruction, improvement, grading, repairing and maintenance of the County roads, lanes, streets, alleys, avenues, bridges or other highways, including those dedicated for public use, but excepting those located within incorporated towns and incorporated special taxing areas of the County. The County Executive is also authorized to adopt, and from time to time, amend and change any and all necessary and reasonable regulations governing the foregoing matters which are not inconsistent with or superseded by any regulation, ordinance or law adopted or enacted by the County Council. The Council is hereby authorized to provide reasonable penalties for the violation of all such regulations and make other necessary provisions for the enforcement thereof. All such regulations when adopted under Method (2) of Section 2A-15 of this Code shall have the force and effect of law.

49-4. Authority of citizens' committees of special taxing areas to regulate construction, maintenance, etc., of streets and roads.

The citizens' committee of any special taxing area, which committee has the authority and duty to pave and maintain streets, roads or other highways in its area, is hereby authorized to adopt, and from time to time, change and amend reasonable regulations and orders under Method (2) of Section 2A-15 of this Code with reference to the proper construction, maintenance, improvement, grading and repairing of the roads, lanes, streets, alleys, avenues, bridges or other highways in taxing areas, including those dedicated for public use. Thereafter no public road, lanes, street, alley, avenue, bridge or other highway within such special taxing area, including those dedicated for public use, shall be constructed, repaired, graded, improved or maintained by any person, association or corporation unless such construction, repairing, improvement, grading or maintenance comply in all particulars with such regulations and orders. In adopting such regulations and orders, the aforesaid citizens' committee may, by resolution, adopt all or part of the regulations and orders promulgated by the County Council of Montgomery County for the construction, maintenance, improvement, grading and repairing of the County roads, lanes, streets, alleys, avenues, bridges or other highways. Any person, association or corporation violating any provisions of this Section or any regulation or order of any citizens' committee passed pursuant hereto

shall be subject to punishment for a Class B violation as set forth in Section 1-19 of Chapter 1 of this Code. Each day's violation shall constitute a separate offense.

49-7. Permit required for grading, etc., projects; fee.

Before any street, sidewalk, gutter, curb, grading project or drainage project may be begun on a County road or street or within the boundaries of a dedication to the public use, the applicant for a permit to undertake any such project shall pay to the County, as an inspection and engineering fee, such fee as may be provided by written regulation of the County Executive, adopted under Method (3) of Section 2A-15 of this Code, for the construction of any such street, sidewalk, gutter, curb, grading project or drainage project.

Any person who violates any provision of this Section shall, upon conviction, be fined not more than one thousand dollars or imprisoned for not more than one year, or both, for each offense.

49-23. Licensing and regulating hoisting.

(a) Whenever, in the judgment of the County Executive, it is necessary for the safety and control of vehicular or pedestrian traffic, he is hereby authorized to issue written safety regulations, adopted under Method (3) of Section 2A-15 of this Code, restricting or limiting the movement or use of any material, platform hoist, bucket hoist, crane, derrick, material hoist tower or any other device designed to hoist anything whatsoever on or over any public street, right-of-way or public place.

49-27. Conversion of existing overhead public utility lines to underground locations.

Whenever it shall be necessary as the result of the construction or improvement of any County road to relocate any overhead electric, telephone, telegraph or other overhead lines of any kind, or related facilities, within any such County road right-of-way, the County Executive shall, by written regulation adopted under Method (3) of Section 2A-15 of this Code, require that any such lines be installed underground if he determines that such underground installation is required by one or more of the following conditions:

\* \* \*

49-33. Standards and specifications.

Except as otherwise provided, the construction of all roads shall conform to the minimum requirements, standards and specifications provided in this Article. Whenever used in this Article the word "standards" means Montgomery County Design Standards, and the word "specifications" means Montgomery County Standard Specifications. The Montgomery County Design Standards and Montgomery County Standard Specifications are hereby adopted and made a part of this Article. The "standards" and "specifications" adopted hereby may be amended by the County Executive by regulation adopted under Method (2) of Section 2A-15 of this Code. The Secretary of the County Council shall keep among the official records the standards and specifications, as adopted by the County Council, together with any amendments thereto. The Secretary shall also prepare and make available to the public printed copies of this Article and of such standards and specifications, and they shall be given such free distribution or sold for such price as the County Executive may determine from time to time.

49-33A. Pedestrian walkways, bikeways and wheelchair traffic.

(c) In order to promote the safety of bicycle and wheelchair travel throughout the County, the County Executive shall establish, by written regulation adopted under Method (3) of Section 2A-15 of this Code, standards and specifications for the construction and maintenance of ramps at curbed intersections and for the construction and maintenance of storm water gratings and other openings along roads and streets of such a design and type as not to constitute a hazard to bicycle and wheelchair traffic. Such nonhazardous ramps, gratings and openings shall be constructed and maintained in connection with all projects implemented pursuant to subsections (a) and (b) of this Section.

49-36. Classification by County Executive.

No person shall construct any road and the County shall not authorize any road to be constructed or issue any permit therefor, until such proposed road shall have been classified by the County Executive as prescribed in this Section. All classifications of roads shall be by written regulation, adopted by the County Executive under Method (2) of Section 2A-15 of this Code, which shall include a statement of facts and conclusions in support thereof.

Classifications of any road may be changed from time to time in like manner.

An alphabetical name file of all roads within the County to which this Article applies, indicating their classification and status as either "maintained", "accepted for maintenance" or "not maintained" shall be kept by the County. A similar file listing all roads according to election district and road number shall also be kept.

**49-38. Permits for grading and construction - Required; application; fee.**

(b) Before any road, sidewalk, curb and gutter or drainage project, except a project which is entirely a grading project, may be begun on a road or within the boundaries of a dedication to the public use, the applicant for a permit to undertake any such project shall pay to the County a fee which shall be established by the County Executive by written regulation adopted under Method (3) of Section 2A-15 of this Code.

(c) Where any such project is entirely a grading project, the applicant shall pay a fee to the County as an inspection and engineering fee

when the office of the Director does the engineering work on such project and a separate fee when the applicant for the permit furnishes the engineering

work. The fees for grading projects shall be established and may be revised from time to time by the County Executive by written regulation adopted under Method (3) of Section 2A-15 of this Code.

(g) No person shall construct sidewalks, driveway entrances, retaining walls, steps, cut-curbs or construct or place any temporary or permanent structure within a public right-of-way without first obtaining a permit therefor from the Director of Transportation, and without paying a fee which shall be established and may be revised from time to time by the County Executive by written regulation adopted under Method (3) of Section 2A-15 of this Code.

this Code.

**49-40. Street and road bonds.**

(e) The County Executive is authorized to adopt regulations, under Method (3) of Section 2A-15 of this Code, to implement the provisions of this section. The Director shall recommend permit fees to include amounts as may be necessary to cover any increased costs of administration of any of the programs set forth in this Section.

49-68A. Application filing fee.

Except for applications by the County and other governmental agencies, no application under this Article shall be received for filing unless it is accompanied by the payment of a filing fee in the amount of one hundred and twenty-five dollars or such other amount established by regulations of the County Executive, adopted under Method (3) of Section 2A of this Code, to defray the cost of hearing and other expenses of such application.

49-75. Adoption of regulations.

The County Executive is authorized to adopt, under Method (2) of Section 2A-15 of this Code, necessary regulations concerning freeways or expressways; such may include, but not be limited to, further provisions for the establishment, construction, use and access to freeways or expressways.

Sec. 49. Sections 51-11 and 51-12(a) of Chapter 51, title "Swimming Pools" be and hereby are amended to read as follows:

51-11. Fees.

The fee for obtaining any license, permit or registration as provided in this Chapter shall be such amount as the County Executive, by regulation adopted under Method (3) of Section 2A-15 of this Code, may set from time to time. No separate pool operating permit shall be required for a wading or spray pool. A separate fee, in such amount as the Executive may set by regulation adopted under Method (2) of Section 2A-15 of this Code, from time to time, will be charged for administration of the examination to applicants for a pool operator's license as provided in this Chapter. Fees shall not exceed the reasonable costs of administering and enforcing this Chapter. There shall be no operating permit fee charged for any pool operated by the County.

51-12. Regulations.

(a) The County Executive is authorized and designated to prescribe and issue written regulations, adopted under Method (2) of Section 2A-15 of this Code, for the implementation and operation of public swimming pools and public swimming pool construction as may be necessary from time to time to implement the provisions of this Chapter.

(b) Each person selling, constructing or installing a swimming pool in

Montgomery County shall provide the purchaser or owner with a current copy of this Chapter.

Sec. 50. Sections 52-7(k), 52-8, 52-16B(k), 52-18A(c), 52-18B(k),

52-18C(m), 52-18D(d), 52-21(d), 52-21(h)(4) and 52-21(i)(4) and (7) of Chapter 52, title "Taxation", be and hereby are amended to read as follows:

52-7. Same - Purchase by County taxpayers; denominations; increase in value;

form; redemption; nontransferable; limitation on amount issued; lost or stolen certificates.

(k) The County Executive is authorized to establish regulations

adopted under Method (3) of Section 2A-15 of this Code, for the replacement of lost or stolen certificates upon proof of loss satisfactory to the Director.

52-8. Certification of payment of taxes; fees; liability for errors, etc.

For certifying the payment or nonpayment of ordinary taxes, to persons

other than the Council or the head of any department of the County Government,

the Director of Finance shall charge and collect a fee for each such

certification as shall be established by the County Executive by written

regulations adopted under Method (3) of Section 2A-15 of this Code and in an

amount not to exceed the cost of administering and providing for liability under this Section.

In addition, the Director of Finance shall charge and collect a fee

which shall be established by the County Executive by written regulation

adopted under Method (3) of Section 2A-15 of this Code for each certification

of payment or nonpayment of any farmland transfer tax due under Section 52-21.

All such certifications shall certify the taxes that are paid or unpaid

according to the records of the County but neither the Director of Finance nor

any official authorized by him to make such certification shall be personally

liable for any error in such certificate unless the error be caused by his

willful, capricious or fraudulent act. In the event of the failure to list on

such certificate unpaid taxes for the period covered by such certificate, or

the failure to list properly payment or nonpayment of the farmland transfer

tax due under section 52-21, the liability of the County on such certificate

shall be limited to the amount of such unpaid taxes, interest and penalties.

22-83 JUN 11 PM

**52-16B. Beverage container tax.**

(k) Additional provisions. The County Executive may adopt

regulations, adopted under Method (2) of Section 2A-15 of this Code, necessary to implement and clarify the provisions of this tax.

**52-18A. Tax credit for certain nonprofit organizations.**

(c) The County Executive is delegated authority to prepare such

regulations, adopted under Method (2) of Section 2A-15 of this Code, as the County Executive determines may be needed for the administration of tax

credits to the extent such administrative rules and regulations are not

inconsistent with Section 9C, Article 81, Annotated Code of Maryland.

**52-18B. Moderate income multi-family rental housing facility real property tax**

deferral.

(k) The County Executive is authorized to adopt regulations, under

Method (2) of Section 2A-15 of this Code, for the administration of this deferral program.

**52-18C. Residential real property tax deferral.**

(m) The County Executive is authorized to adopt regulations, under

Method (2) of Section 2A-15 of this Code, for the administration of this deferral program.

**52-18D. Tax credit for Great Hope Homes Limited.**

(d) The County Executive is delegated authority to prepare such

regulations, to be adopted under Method (3) of Section 2A-15 of this Code, as the Executive determines may be needed for the administration of tax credit to

the extent such administrative regulations are not inconsistent with Section

9C, Article 81, Annotated Code of Maryland.

**52-21. Levied; amount.**

(d) A percentage of the value of the consideration for the transfer of

land, excluding improvements thereon, which, while owned by the transferor,

has been assessed at any time during the five years preceding transfer on the

basis of being actively devoted to farm or agricultural use or which while

owned by the transferor has been valued and assessed on the assessment records

on the basis of the agricultural use value assessment at any time during the

five years preceding transfer, said tax to be paid by the transferor of such

land, which percentage shall vary according to the following schedule:



(1) Land assessed and taxed to the transferor for one year on the basis of farm or agricultural use, two and one-half percent.

(2) Land assessed and taxed to the transferor for two years on the basis of farm or agricultural use, four percent.

(3) Land assessed and taxed to the transferor for three years on the basis of farm or agricultural use, five and one-half percent.

(4) Land assessed and taxed to the transferor for more than three years on the basis of farm or agricultural use, six percent.

Improvements and land which were not assessed based on farm or agricultural use and are not subject to the farmland transfer tax levied in subsections (d)(1), (2), (3), or (4) and are transferred as a part of a

transaction including a transfer of land previously assessed as farmland, shall be taxed as provided in other subsections of this Section 52-21 as if such improvements and land were not part of a transaction including farmland.

Consideration for the improvements and non-farm-assessed land shall be presumed to be the total full cash value most recently determined by the Supervisor of Assessments based on the most recent notice of assessment. The presumption may be rebutted by clear and convincing evidence.

Where the transfer is subject both to the tax imposed by this subsection (d) and the tax imposed by subsection (e) below, the tax imposed by subsection (e) shall be the only tax imposed on the transfer.

The County Executive may from time to time issue written regulations adopted under Method (3) of Section 2A-15 of this Code, pertaining to the collection of the tax levied in this subsection.

(h) Four percent of the value of the consideration for the initial transfer of a residential unit subject to a condominium regime, which unit was offered for rent for residential purposes prior to the establishment of the condominium regime.

(4) The County Executive may adopt regulations, under Method (2) of Section 2A-15 of this Code, for the implementation of the purposes set forth above. Expenditures from the fund shall be authorized by appropriation by the County Council.

(i) Four percent of the value of the consideration for the initial transfer of stock or other evidence of membership in a cooperative or similar entity where such stock corresponds to a residential unit which is being converted from rental status to a system of cooperative housing corporation ownership under which title to a multi-unit residential facility is held by a corporation, the shareholders or members of which, by virtue of such ownership or membership, are entitled to enter into an occupancy agreement for a particular residential unit.

\* \* \*

(4) The County Executive may adopt regulations, under Method (2) of Section 2A-15 of this Code, for the implementation of the purposes set forth above. Expenditures from the fund shall be authorized by appropriation by the County Council.

\* \* \*

(7) For purposes of subsection (1), a transfer or issuance of stock or other evidence of membership from the cooperative housing corporation to the developer shall not be deemed to be the initial transfer. The County Executive may from time to time issue written regulations, adopted under Method (2) of Section 2A-15 of this Code, to define any terms or to effectuate the purposes of this subsection (1).

\* \* \*

Sec. 51. Sections 53-18, 53-19(c) and (e), 53-37A, 53-42 and 53-46(c)(5) of Chapter 53, title "Taxicabs and Limousines" be and hereby are amended to read as follows:

53-18. Vehicle equipment - Taximeters.

Each taxicab for which a passenger vehicle license has been issued under this Chapter shall be equipped, while in service, with an accurate, properly installed and connected taximeter which has a security seal affixed by the Office of Consumer Affairs. Periodic tests of such meters will be made. Upon successful completion of the tests, the taximeter shall be affixed with a security seal. These tests should be scheduled by the County in such a manner as to minimize the interruption of taxicab service to the public. Except as otherwise specified, the requirements for approval and methods of testing and operation of taximeters shall conform to specifications,

tolerances and regulations for taximeters as set out in the National Bureau of Standards Handbook 44, or as may be established by executive regulation

adopted under Method (3) of Section 2A-15 of this Code. It shall be unlawful and cause for revocation or suspension of identification card or passenger vehicle license for any person:

(a) To make any change in the mechanical condition of wheels, tires and gears of any taxicab with intent to cause false registration by the meter of the fare to be charged any passenger.

(b) To make any charge for transportation other than computed by the taximeter with a security seal, provided, however, that the Director of the Department of Transportation, or his or her authorized designee, may grant a waiver to this provision for a contract filed therewith that permits lower

rates than those computed by the taximeter upon a written determination that the contract provision will not result in a significant reduction of service to the general public as provided under Section 53-31.

(c) Adjustments of rates. The County Executive may adjust such rates, by executive regulations adopted under Method (3) of Section 2A-15 of this Code, as he or she deems necessary in the public interest after public notice and hearing and after giving consideration to the recommendations of the

Taxicab Service Advisory Committee.

(e) The County Executive is authorized to adopt regulations, under Method (2) of Section 2A-15 of this Code, to include but not be limited to a taxicab reporting system in order to carry out the intent of this Article.

#### 53-37A. Regulations.

The County Executive is hereby authorized to establish in writing regulations, adopted under Method (2) of Section 2A-15 of this Code, necessary and proper to carry out the purposes and intent of this Chapter.

#### 53-42. Insurance required of applicants.

Before issuing any passenger vehicle license under this Article, the Department of Transportation shall ascertain as to each vehicle licensed that the owner has insurance or surety for the vehicle covering bodily injury or death to any passenger or other person, and property damage in the amounts required by regulations adopted by the County Executive under Method (3) of

Section 2A-15 of this Code, and further that such insurance surety covers the full period for which the vehicle is to be insured.

If at any time, for any reason, the insurance or surety coverage lapses during the license year, the license shall be immediately suspended without notice or hearing, and the Director or his agent shall proceed immediately to obtain possession of the license and shall not reissue it until the insurance or surety requirements are fully met.

53-46. Issuance; maximum number; waiting list; rights of heirs of deceased licensee.

(c) Authorized, unissued passenger vehicle licenses shall be issued in accordance with the following procedure and determinations:

(5) Applications for a passenger vehicle license shall be processed in accordance with the following procedures:

a. Application shall be made in writing to the Department of Transportation in accordance with Section 53-40 of this Chapter.

b. Upon receipt of any such application, the Department of Transportation shall give due notice thereof to the public by posting a notice of such application in the office of the Department and by causing copies of such notice to be transmitted to such other persons as the Department may by regulation determine. Any interested person may file with the Department a protest or memorandum of opposition to or in support of the grant of any such application. The County Executive shall, by regulation adopted under Method (3) of Section 2A-15 of this Code, determine the duration of such posting and any limitations of time applicable to the giving of notice and the filing of protests or memoranda and such periods of time shall be sufficient in duration to most nearly assure actual notice and opportunity to be heard to all interested persons.

c. The Department may act without a public hearing to recommend disposition of any application as to which neither a protest nor a memorandum in the opposition has been duly furnished to the Department within the prescribed time. The Department shall set all other applications for public hearing, at which oral and written evidence, testimony and argument shall be received from the applicant and other interested persons. The County Executive shall, by written regulation adopted under Method (3) of Section

2A-15 of this Code, establish procedures which will assure that interested persons receive actual notice and an opportunity to participate in such hearing.

\* \* \*

Sec. 52. Sections 53A-3, 53A-8(c) and 53A-10 of Chapter 53A, title "Tenant Displacement", be and hereby are amended to read as follows:

53A-3. Right of first refusal to purchase rental facilities.

(a) Sale of rental facilities.

Prior to the sale or transfer of a rental facility of more than ten rental units to any person for the purpose of conversion, the owner shall provide a right of first refusal to purchase the rental facility to the County, its designated housing agency and tenants' organizations certified by the Office of Consumer Affairs pursuant to executive regulations adopted under Method (3) of Section 2A-15 of this Code.

\* \* \*

(b) Notice required; exercise of right of first refusal.

\* \* \*

(4) The County Executive may require the owner, by executive regulations adopted under Method (3) of Section 2A-15 of this Code, to make available to the County, its designated housing agency and certified tenants organization information regarding the characteristics and condition of the facility deemed relevant to the exercise of the right of first refusal, including but not limited to architectural and engineering plans and specifications and facility operating data. In addition, the County Executive, by regulation adopted under Method (3) of Section 2A-15 of this Code, may require the owner to provide access to the facility for purposes of inspection by the County, its designated housing agency, and certified tenants organization, provided, the County, its designated housing agency, and certified tenants organization, and their agents shall be responsible for any damage to the property caused by such inspection. The County Executive may provide, by regulation adopted under Method (3) of Section 2A-15 of this Code, that any information received by either the County or its designated housing agency, pursuant to this subsection, is confidential and not subject to public disclosure.

\* \* \*

53A-8. Notice to tenants of status conversion; right of tenant to terminate lease; liability for relocation costs.

(c) Any tenant who, within one hundred eighty (180) days after receipt of a notice of intention to convert the status or use of the rental facility, under this Chapter, gives written notice of intent to move to the owner, shall be entitled to reimbursement by the owner for the reasonable costs of relocation assistance as determined by executive regulation, adopted under Method (3) of Section 2A-15 of this Code, up to \$750.00, provided that complaints regarding the application of this subsection may be filed with the Office of Landlord-Tenant Affairs.

53A-10. Administration of Chapter.

The Office of Consumer Affairs shall be responsible for administration of this Chapter and the County Executive shall, from time to time, issue such written regulations, adopted under Method (2) of Section 2A-15 of this Code, as may be necessary to put into effect and to administer the provisions of this Chapter.

Sec. 53. Sections 54-2, 54-15, 54-19 and 54-23 of Chapter 54, title "Transient Lodging Facilities", be and hereby are amended to read as follows:

54-2. Authority of County Executive to regulate and license.

The County Executive, in order to implement the health standards and regulations of this Chapter, is hereby authorized by law to adopt such regulations, under Method (3) Section 2A-15 of this Code, concerning the operation, maintenance and conduct of any of the types of establishments referred to in this Chapter, including provision of such licenses and license fees for such establishments as he may deem appropriate. Neither the provisions of this Chapter nor the provisions of any law adopted hereunder shall be applicable within the corporate limits of any incorporated municipality or special taxing area within the County which by law has authority to enact similar regulations.

54-15. Application.

Before an annual license for any establishment shall be issued by the Director under this Division, an application shall be filed by the owner or operator, or his duly authorized agent, in accordance with the regulations prescribed by the County Executive under Method (3) of Section 2A-15 of this Code.

**54-19. Fees.**

The annual fees for licenses under this Division shall be established

by the County Executive by written regulation adopted under Method (3) of Section 2A-15 of this Code.

**54-23. Change of location of establishment; transfer.**

(a) Whenever an establishment changes its location, the current

license held by such owner or operator under this Division shall automatically become void.

(b) The Director may, in his discretion, authorize the transfer of a

license issued under this Division to a new owner or operator upon an

application for transfer of the license and payment of a transfer fee which

shall be established by the County Executive by written regulation adopted under Method (3) of Section 2A-15 of this Code.

**Sec. 54. Sections 56-1, 56-2A, 56-6, 56-30(h) and 56-34 of Chapter 56,**

title "Urban Renewal and Community Development", be and hereby are amended to read as follows:

**56-1. Rehabilitation loan fund.**

The County Council is hereby empowered and authorized by resolution to establish and thereafter to maintain a special fund to be known as the

"rehabilitation loan fund" for the purpose of making loans to homeowners of

low income to finance rehabilitation required to make their homes or mobile

homes conform to applicable County Code requirements, provided such loans are

not available on reasonable terms and conditions from other sources. The

County Executive shall prescribe from time to time such regulations, adopted

under Method (2) of Section 2A-15 of this Code, deemed appropriate for the

making of such loans and the administration of the fund, including the right

to contract with private organizations for the administration of such fund.

**56-2A. Authority to establish.**

The County Council is hereby empowered and authorized by resolution to

establish and thereafter to maintain a special fund to be known as the

"homeowners' replacement loan fund" for the purpose of making direct loans to

homeowners of low income, whose present homes cannot be rehabilitated to

conform with applicable County Code requirements, to finance new homes,

including prefabricated and mobile homes and to finance the purchase of land

upon which a home is situated; provided, that such loans are not available on reasonable terms and conditions from other sources. The County Executive shall adopt under Method (2) of Section 2A-15 of this Code, from time to time such regulations as he or she shall deem appropriate for the making of such loans and the administration of the fund, including the right to contract with private organizations for the administration of such fund; provided, that the loans available under this fund shall be limited to those individuals whose income and net worth preclude home financing through normal banking or other financial channels. In determining the availability to the property owner of adequate commercial financing, the following shall be taken into consideration:

\* \* \*

56-6. Administration.

The homeowners replacement loan fund shall be administered by the Director of Housing and Community Development, pursuant to regulations to be adopted by the County Executive, under Method (2) of Section 2A-15 of this Code.

56-30. Powers and authority of County.

(h) Eligibility standards. Adopt and revise standards, by executive regulations adopted under Method (2) of Section 2A-15 of this Code, for eligibility for renting or purchasing opportunity housing, and establish and revise the rents, sales prices or charges therefor; such rents, sales prices or charges to be based upon a set of maximum income or other financial limits to be established and revised by the County Executive for eligibility and admission to such opportunity housing. In establishing and revising such income limits, the County Executive shall consider all available statistical data indicating the minimum rentals and sales prices of dwelling units or housing available or being produced in the private market, including sales price data from the County's Department of Finance; the vacancy ratio in rental units; the currently prevailing prices at which private enterprise can and will produce sales and rental units; and any other statistical data which at the discretion of the County Executive is deemed appropriate and relevant to the general market and economic conditions that currently exist.

56-34. Financial assistance.



(a) The County Council is hereby empowered and authorized by resolution to establish and thereafter to maintain a special fund to be known as the "tenant displacement aid fund" for the purpose of making grants and loans to persons of eligible income, as follows:

(1) Down payment assistance loans

a. Down payment assistance loans may be made from the tenant displacement fund to persons who are eligible for the following reasons: a household member is 62 years of age or older at the time of the application or is physically or mentally handicapped as defined by executive regulation adopted by the County Executive under Method (2) of Section 2A-15 of this Code, and has an income within the moderately priced dwelling unit ordinance income limits and is being displaced or threatened by displacement as a result of a rental facility changing in status or use, including, but not limited to, the establishment of a condominium regime, the establishment of a cooperative housing project, the establishment of a commercial use of a facility, or partial or complete demolition.

\* \* \*

(2) Rental assistance grant

a. Grants from the tenant displacement aid fund may be made for rent differential assistance, as defined by executive regulations adopted by the County Executive under Method (2) of Section 2A-15 of this Code, to persons who are eligible for the following reasons: a household member is 62 years of age or older at the time of the application or is physically or mentally handicapped as defined by executive regulation, and has an income within the moderately priced dwelling unit ordinance income limits, and is being displaced or threatened by displacement as a result of a rental facility changing in status or use, including, but not limited to, the establishment of a condominium regime, the establishment of a cooperative housing project, the establishment of a commercial use of a facility, or partial or complete demolition.

\* \* \*

(b) Grant payments to the Housing Opportunities Commission may be made for the purchase of rental units converting to condominium or other status. The County Executive shall prescribe from time to time, such terms,

conditions, regulations, adopted under Method (2) of Section 2A-15 of this Code, as he shall deem appropriate for the making of grants and the administration of the fund.

(c) The County Executive shall prescribe from time to time regulations adopted under Method (2) of Section 2A-15 of this Code, as he shall deem appropriate for the making of all grants and loans and the administration of the fund.

\* \* \*

Sec. 54A. Sections 56A-5(a), 56A-8 and 56A-9(b) of Chapter 56A, title "Video Games", be and hereby are amended to read as follows:

56A-5. License fees.

(a) The fee for a license issued under this Chapter is:

- (1) Paid to the Director;
- (2) In the amount that the County Executive by regulation, adopted under Method (3) of Section 2A-15 of this Code, sets;
- (3) Not refundable.

56A-8. Registration Fee

The fee for a certificate or registration issued under this Chapter is:

- (1) Paid to the Director;
- (2) In the amount that the County Executive by regulation, adopted under Method (3) of Section 2A-15 of this Code, sets; and
- (3) Not refundable.

56A-9. Administration.

(b) The County Executive may issue any necessary regulation, adopted under Method (2) of Section 2A-15 of this Code, to implement this Chapter.

Sec. 55. Severability.

The provisions of this Act are severable and if any provision, clause, sentence, section, word or part thereof is held illegal, invalid or unconstitutional, or inapplicable to any person or circumstances, such illegality, invalidity or unconstitutionality, or inapplicability shall not affect or impair any of the remaining provisions, sentences, clauses, sections, words or parts of the Act or their application to other persons or circumstances. It is hereby declared to be the legislative intent that this Act would have been adopted if such illegal, invalid, or unconstitutional

provision, sentence, clause, section, word or part had not been included therein, and if the person or circumstances to which the Act or any part thereof is inapplicable had been specifically exempted therefrom.

Sec. 56. Effective Date.

This Act shall take effect on the 91st day following the date on which it becomes law.

Approved:

Escher P. Gelman 12-15-83  
President, Montgomery County Council Date

Approved:

Charles W. Gilchrist 12/15/83  
County Executive Date

ATTEST:

Kathleen A. Freeman 12/16/83  
Acting Secretary of the County Council Date

Bill No.: 19-86  
Concerning: County Employee  
Collective Bargaining  
Draft No. & Date: 4 - 6/24/86  
Introduced: March 25, 1986  
Enacted: June 24, 1986  
Executive: June 30, 1986  
Effective: September 29, 1986  
Sunset Date: None  
Ch. 70, Laws of Mont. Co., FY 86

COUNTY COUNCIL  
FOR MONTGOMERY COUNTY, MARYLAND

---

By: Personnel Committee

---

AN ACT TO:

- (1) establish a framework for public employer-employee labor relations;
- (2) provide the method for designating an employee organization as the exclusive representative of public employees in the appropriate unit;
- (3) provide procedures for collective bargaining of wages, hours, and other terms and conditions of employment;
- (4) provide for the appointment of a labor relations administrator;
- (5) define the rights of employees, employee organizations, and the public employer;
- (6) prohibit certain conduct;
- (7) provide procedures for resolving differences between the public employer and employees;
- (8) generally assure uninterrupted operation of government services; and
- (9) generally provide for the establishment of County employee collective bargaining.

By amending  
Chapter 33, Personnel  
Section 33-11(b) and Article IV of the Montgomery County Code

By adding

Chapter 33, Personnel

~~Sections 33-63A and 33-74(d)~~ and Article VII of the  
Montgomery County Code

- EXPLANATION:
- **Boldface** indicates matter that is a heading or a defined term.
  - Underlining indicates matter added to existing law.
  - [[Double Brackets]] indicate matter repealed from existing law.
  - **CAPITALS** indicate matter quoted from existing law which is added to the bill by amendment.
  - UNDERLINED CAPITALS indicate matter added to existing law by amendment to the bill.
  - ~~Strikes~~ indicate matter deleted from the bill by amendment.
  - \* \* \* indicates existing law unaffected by the bill.

The County Council for Montgomery County, Maryland, approves the following act:

01           Sec. 1. Section 33-11(b) is amended to read as follows:

02       33-11. Classification; salary and wage plans.

03                               \*       \*       \*

04           (b) Uniform salary plan. [[There is hereby established for all  
05 classes of positions in the merit system a uniform salary plan entitled the  
06 "general salary schedule" which shall contain grades, salary rates and ranges  
07 for each grade. All classes of positions shall be assigned an appropriate  
08 grade under the general salary schedule by the chief administrative officer.  
09 All positions involving comparable duties, experience, responsibilities and  
10 authority shall be paid comparable salaries in accordance with the relative  
11 value of the services performed. In establishing salary rates, consideration  
12 shall be given to experience, prevailing salary rates for comparable services  
13 in both the public and private sectors, living costs, and fringe and other  
14 benefits received by the employee under the merit system. The chief  
15 administrative officer shall, subject to the approval of the county council,  
16 promulgate and from time to time amend the general salary schedule,  
17 compensation policies for overtime, pay differential and other appropriate  
18 salary and wage benefits.]]

- 19           (1) Subject to approval by the County Council, the Chief  
20           Administrative Officer must issue and periodically amend a  
21           uniform salary plan known as the "general salary schedule" for  
22           all classes of positions in the merit system.
- 23           (2) The general salary schedule must contain grades, salary rates,  
24           and salary ranges for each grade.
- 25           (3) The Chief Administrative Officer must assign an appropriate  
26           grade under the general salary schedule to all classes of  
27           positions.

- (4) All positions involving comparable duties, experience, responsibilities, and authority must be paid comparable salaries in accordance with the relative value of the services performed.
- (5) In setting salary rates, the Chief Administrative Officer must consider experience, prevailing salary rates for comparable services in both the public and private sectors, living costs, and fringe and other benefits received by the employee under the merit system.
- (6) Subject to approval by the County Council, the Chief Administrative Officer must also issue and periodically amend compensation policies for overtime, pay differentials, and other appropriate salary and wage benefits.
- (7) Any plan, policy, or schedule issued by the Chief Administrative Officer under this subsection is subject to the limitations in Articles V and VII of this chapter regarding County police department and government employees who are represented by a certified employee organization.

Sec. 2. Article IV of Chapter 33 is amended to read as follows:

ARTICLE IV. EMPLOYER-EMPLOYEE RELATIONS

33-62. STATEMENT OF LEGISLATIVE INTENT.

THE/COUNTY/COUNCIL/HEREBY/FINDS/THAT/THE/TREND/IN/LABOR/RELATIONS  
BETWEEN/GOVERNMENT/AND/ITS/EMPLOYEES/IS/BECOMING/SOMEWHAT/ALIGNED/WITH/THE  
PRACTICES/OF/THE/PRIVATE/SECTOR/OF/REPRESENTATION/OF/EMPLOYEE/GROUPS/BY  
DESIGNATED/ELECTED/EMPLOYEE/ORGANIZATIONS//THE/COUNCIL/BELIEVES/THAT  
GOVERNMENT/SHOULD/TAKE/THE/INITIATIVE/IN/PROVIDING/A/VEHICLE/WHEREBY  
GOVERNMENT/EMPLOYEE/REPRESENTATION/CAN/EMERGE/AND/EVOLVE/IN/A/FASHION/

01 CONSISTENT WITH BOTH THE NEEDS OF THE EMPLOYEE AND THOSE OF GOVERNMENT//THE  
 02 COUNCIL FURTHER BELIEVES THAT THIS CAN BEST BE ACCOMPLISHED BY ENACTING  
 03 LOCAL LEGISLATION WHICH PROVIDES FOR THE VOLUNTARY REPRESENTATION OF  
 04 GOVERNMENT EMPLOYEES BY THEIR ONLY DESIGNATED AND ELECTED EMPLOYEE  
 05 ORGANIZATIONS//THE COUNCIL ALSO BELIEVES THAT THE EFFICIENT ADMINISTRATION  
 06 OF THE COUNTY GOVERNMENT IS ENHANCED BY PROVIDING EMPLOYEES AN OPPORTUNITY  
 07 TO PARTICIPATE IN THE FORMULATION AND IMPLEMENTATION OF POLICIES AND  
 08 PRACTICES AFFECTING THE CONDITIONS OF THEIR EMPLOYMENT//BECAUSE THE COUNCIL  
 09 BELIEVES IT IS DESIRABLE TO MINIMIZE THE PROLIFERATION OF EMPLOYEE UNITS//IT  
 10 HAS LIMITED THE NUMBER OF SUCH UNITS TO SEVEN (7), HOWEVER, THE COUNCIL  
 11 WOULD CONSIDER CHANGING THAT LIMITATION AT A FUTURE DATE UPON THE  
 12 RECOMMENDATION OF THE CHIEF ADMINISTRATIVE OFFICER OR AN AFFECTED GROUP OF  
 13 EMPLOYEES//THE COUNCIL FURTHER STATES THAT THE ELIGIBILITY AS TO MEMBERSHIP  
 14 IN AN EMPLOYEE UNIT FOR PURPOSES OF THIS MEET+AND+CONFER TYPE OF EMPLOYEE  
 15 REPRESENTATION WOULD NOT NECESSARILY BE EXTENDED IN THE SAME MANNER IF  
 16 AUTHORITY FOR COLLECTIVE BARGAINING WERE GRANTED//MEMBERSHIP OR  
 17 NONMEMBERSHIP IN AN EMPLOYEE ORGANIZATION SHALL IN NO WAY LIMIT THE ABILITY  
 18 OF AN EMPLOYEE TO OBTAIN GOVERNMENT INFORMATION TO WHICH HE/SHE WOULD  
 19 NORMALLY HAVE ACCESS//NOTHING IN THIS ARTICLE SHALL RESTRICT THE ABILITY OF  
 20 ANY EMPLOYEE, WHETHER MEMBER OR NONMEMBER OF AN EMPLOYEE ORGANIZATION, TO  
 21 DISCUSS MATTERS CONCERNING EMPLOYEES OR EMPLOYEE GROUPS TO THE EXTENT THAT  
 22 SUCH DISCUSSION DOES NOT CONFLICT WITH THE DUTIES AND RESPONSIBILITIES OF  
 23 THE EMPLOYEE/

24 IN ENACTING ARTICLE VII OF THIS CHAPTER, WHICH PROVIDES THE OPPORTUNITY  
 25 AND ESTABLISHES PROCEDURES FOR COLLECTIVE BARGAINING FOR MOST COUNTY MERIT  
 26 SYSTEM EMPLOYEES, THE COUNTY COUNCIL CONCLUDED:

27 (1) THAT IT WOULD BE INAPPROPRIATE TO INCLUDE STATE-COUNTY MERIT SYSTEM



EMPLOYEES SUCH AS THOSE IN THE DEPARTMENT OF SOCIAL SERVICES AMONG  
THE EMPLOYEES ENTITLED TO BE REPRESENTED FOR PURPOSES OF COLLECTIVE  
BARGAINING UNDER ARTICLE VII; AND

(2) THAT STATE-COUNTY MERIT SYSTEM EMPLOYEES SHOULD CONTINUE TO BE  
ENTITLED TO MEET AND CONFER REPRESENTATION TO THE EXTENT THEIR  
SALARIES AND WORKING CONDITIONS ARE SUBJECT TO OR AFFECTED BY COUNTY  
POLICIES. THE COUNCIL HAS THEREFORE REVISED ARTICLE IV OF THIS  
CHAPTER TO ACHIEVE THIS INTENT.

### 33-63. DEFINITIONS.

FOR THE PURPOSES OF THIS ARTICLE, THE FOLLOWING WORDS AND PHRASES SHALL  
HAVE THE MEANINGS RESPECTIVELY ASCRIBED TO THEM BY THIS SECTION, INDICATED:

(A) CERTIFICATION: THE PROCEDURE WHEREBY EMPLOYEE ORGANIZATIONS ARE  
ELECTED AND RECOGNIZED TO REPRESENT EMPLOYEE UNITS.

(1) "CERTIFICATION". THE PROCEDURE BY WHICH AN EMPLOYEE ORGANIZATION  
IS SELECTED AND RECOGNIZED TO REPRESENT THE EMPLOYEE UNIT.

(B) DECERTIFICATION:

(2) "DECERTIFICATION". THE PROCEDURE BY WHICH THE CHIEF ADMINISTRATIVE  
OFFICER WITHDRAWS COUNTY COUNTY RECOGNITION OF AN THE EMPLOYEE  
ORGANIZATION WITH OR WITHOUT AN ELECTION BY THE EMPLOYEES OF AN  
THE EMPLOYEE UNIT.

(C) EMPLOYEE: ANY COUNTY MERIT SYSTEM EMPLOYEE WORKING ON A  
CONTINUOUS/FULL-TIME, CAREER OR PART-TIME, CAREER BASIS, ELIGIBLE TO BE  
INCLUDED IN A UNIT OF RECOGNITION EXCEPT FOR THE FOLLOWING:

(1) CONFIDENTIAL AIDES TO ELECTED OFFICIALS;

(2) ALL NON-MERIT-SYSTEM EMPLOYEES;

(3) ALL HEADS OF PRINCIPAL DEPARTMENTS, OFFICES AND AGENCIES;

(4) DEPUTY OR ASSISTANT DEPARTMENT HEADS;

(5) EMPLOYEES/PROVIDING/DIRECT/STAFF/OR/ADMINISTRATIVE/SUPPORT/TO/THE  
DIRECTOR/OF/THE/DEPARTMENT, /OR/DEPUTY/OR/ASSISTANT/DIRECTORS/WITHIN/THE  
DIRECTOR/S/IMMEDIATE/OFFICE/

(6) EMPLOYEES/WHO/REPORT/DIRECTLY/TO/OR/WHOSE/IMMEDIATE/SUPERVISOR/IS  
THE/COUNTY/EXECUTIVE, /COUNTY/COUNCIL, /COUNTY/COUNCIL/MEMBERS/OR/THE/CHIEF  
ADMINISTRATIVE/OFFICER/AND/THE/PRINCIPAL/AIDES/TO/THE/FOREGOING/

(7) EMPLOYEES/OF/THE/OFFICE/OF/THE/COUNTY/ATTORNEY/

(8) EMPLOYEES/OF/THE/OFFICE/OF/MANAGEMENT/AND/BUDGET/

(9) EMPLOYEES/OF/THE/OFFICE/OF/EMPLOYEE/RELATIONS/

(10) EMPLOYEES/OF/THE/PERSONNEL/OFFICE/

(11) EMPLOYEES/OF/THE/MERIT/SYSTEM/PROTECTION/BOARD/

(12) HEADS/OF/THE/FOLLOWING/CONSTITUENT/OFFICES, /DIVISIONS/AND  
SECTIONS/IN/THE/DEPARTMENT/OF/TRANSPORTATION/EXISTING/AT/THE/TIME/OF  
ENACTMENT/OF/THIS/BILL/AND/POSITIONS/CARRYING/A/SIMILAR/DEGREE/OF/PERSONNEL  
MANAGEMENT/RESPONSIBILITIES/IN/OTHER/DEPARTMENTS/AND/OFFICES/AS/DETERMINED  
BY/THE/CHIEF/ADMINISTRATIVE/OFFICER, /DIRECTOR/S/OFFICE, /OFFICE/OF  
RIGHT-OF-WAY/ACQUISITION, /OFFICE/OF/ADMINISTRATIVE/SERVICES, /OFFICE/OF  
TRANSPORTATION/PLANNING, /DIVISION/OF/TRANSPORTATION/ENGINEERING, /SUBDIVISION  
DEVELOPMENT/SECTION, /DESIGN/SECTION, /CONSTRUCTION/SECTION, /DIVISION/OF  
TRAFFIC/ENGINEERING, /TRAFFIC/PLANNING/AND/SURVEY/SECTION, /TRAFFIC/OPERATIONS  
SECTION, /DIVISION/OF/OPERATIONS, /TESS/MINIBUS, /HIGHWAY/MAINTENANCE/SECTION,  
EQUIPMENT/SECTION/AND/DIVISION/OF/PARKING/LOT/DISTRICTS/

(13) AN/EMPLOYEE/OF/THE/POLICE/DEPARTMENT, /AS/DEFINED/IN/SECTION/33-76  
OF/THIS/CHAPTER, /WHO/IS/REPRESENTED/BY/A/CERTIFIED/EMPLOYEE/ORGANIZATION  
PURSUANT/TO/THE/PROVISIONS/OF/ARTICLE/V, /TITLE/"POLICE/LABOR/RELATIONS"/OF  
THIS/CHAPTER/

(3) "EMPLOYEE". ANY STATE-COUNTY MERIT SYSTEM EMPLOYEE EXCEPT PERSONS

DESCRIBED IN SUBPARAGRAPHS 33-102(4)(A), (C), (D), (E), (M), (N),  
(R), AND (S) OF ARTICLE VII OF THIS CHAPTER.

(A) EMPLOYEE/ORGANIZATION: ANY/LAWFUL/ORGANIZATION/WHICH/REPRESENTS  
EMPLOYEES/IN/THEIR/EMPLOYMENT/RELATIONS/WITH/THE/COUNTY//THE/TERM  
"EMPLOYEE/ORGANIZATION" DOES/NOT/INCLUDE/ANY/ORGANIZATION/WHICH/

(1) DISCRIMINATES/WITH/REGARD/TO/TERMS/AND/CONDITIONS/OF/MEMBERSHIP  
WITH/REGARD/TO/RACE,/COLOR,/RELIGION,/CREED,/SEX,/AGE,/NATIONAL/ORIGIN/  
ANCESTRY/OR/MARITAL/STATUS/

(2) DOES/NOT/ADHERE/TO/DEMOCRATIC/PROCEDURES/AND/PRACTICES/WITH/REGARD  
TO/ELECTION/OF/OFFICERS,/INDIVIDUAL/PARTICIPATION/IN/ORGANIZATIONAL/AFFAIRS/  
EQUAL/TREATMENT/UNDER/ITS/BYLAWS,/INCLUDING/DUES/PROCESSING,/AND  
DISCIPLINARY/PROCEDURES,/OR

(3) DOES/NOT/MAINTAIN/FISCAL/INTEGRITY/IN/THE/CONDUCT/OF/THE/AFFAIRS/OF  
THE/ORGANIZATION,/INCLUDING/ACCOUNTING/CONTROLS/AND/REGULAR/FINANCIAL  
REPORTS/TO/MEMBERS/

(4) "EMPLOYEE ORGANIZATION". ANY ORGANIZATION THAT ADMITS EMPLOYEES TO  
MEMBERSHIP AND THAT HAS AS A PRIMARY PURPOSE THE REPRESENTATION OF  
EMPLOYEES IN COLLECTIVE BARGAINING OR MEET AND CONFER REPRESENTATION  
OR BOTH.

(A) EMPLOYEE/UNIT: GROUPINGS/OF/EMPLOYEES/FOR/PURPOSES/OF  
REPRESENTATION/IN/COUNTY/EMPLOYEE/RELATIONS/

(5) "EMPLOYEE UNIT" OR "UNIT". ALL EMPLOYEES AS DEFINED IN  
SUBSECTION 33-63(3) OF THIS CHAPTER.

(F) POSITION/PAPER/

(6) "POSITION PAPER". A NONBINDING WRITTEN MEMORANDUM REFLECTING ALL  
ITEMS DISCUSSED BY THE ~~COUNTY~~ COUNTY AND ~~AN~~ THE EMPLOYEE  
ORGANIZATION.

(7) "STATE-COUNTY MERIT SYSTEM EMPLOYEE". A STATE MERIT SYSTEM

EMPLOYEE WHOSE SALARY IS SUPPLEMENTED BY THE COUNTY.

~~(8) UNIFORMED SERVICES//THOSE ACTIVITIES ENGAGED IN THE PROTECTION OF  
LIFE AND PROPERTY//LAW ENFORCEMENT OR CORRECTIONAL ACTIVITIES//AND WHOSE  
EMPLOYEES HAVE AS THEIR PRIMARY DUTIES AND RESPONSIBILITIES THE OPERATIONAL  
ACTIVITIES OF SUCH PUBLIC SAFETY ACTIVITIES/~~

33-64. EMPLOYEE RIGHTS.

\* \* \*

(b) ~~EACH EMPLOYEE SHALL~~ THE EMPLOYEES HAVE THE RIGHT TO BE REPRESENTED  
BY AN EMPLOYEE ORGANIZATIONS/ ORGANIZATION, INCLUDING THE RIGHT TO  
MEET WITH REPRESENTATIVES OF THE ~~COUNTY~~ COUNTY CONCERNING  
CONDITIONS OF EMPLOYMENT AND THE RESOLUTION OF GRIEVANCES.

(c) NOTHING IN THIS ARTICLE SHALL PRECLUDE THE RIGHTS OF AN EMPLOYEE TO  
PURSUE AN INDIVIDUAL GRIEVANCE THROUGH ESTABLISHED ADMINISTRATIVE  
PROCEDURES OR THROUGH APPEAL TO THE PERSONNEL BOARD, IN THAT NOTHING  
IN THIS ARTICLE SHALL CIRCUMVENT OR SHALL BE DEEMED TO SUPERSEDE OR  
ANNUL THE PROVISIONS OF THE LAWS OF THE ~~STATE~~ STATE, THE ~~COUNTY~~  
~~CHARTER~~ COUNTY CHARTER, ~~AND OR~~ THE LAWS AND ORDINANCES OF THE  
~~COUNTY~~ COUNTY, INCLUDING THE PERSONNEL REGULATIONS.

(d) ~~NO EMPLOYEE, WHO IS NOT A MEMBER OF AN EMPLOYEE ORGANIZATION SHALL  
EVER BE REQUIRED TO BECOME A MEMBER OF SUCH AN ORGANIZATION OR TO  
PAY MONEY TO SUCH AN ORGANIZATION, EXCEPT ON A PURELY VOLUNTARY  
BASIS/~~ AN EMPLOYEE WHO IS NOT A MEMBER OF AN EMPLOYEE  
ORGANIZATION MUST NEVER BE REQUIRED TO BECOME A MEMBER OF AN EMPLOYEE  
ORGANIZATION OR TO PAY MONEY TO AN EMPLOYEE ORGANIZATION EXCEPT ON A  
PURELY VOLUNTARY BASIS.

33-65. DETERMINATION OF EMPLOYEE UNITS.

(A) THE CHIEF ADMINISTRATIVE OFFICER SHALL MAKE THE FINAL DETERMINATION AS TO THE COMPOSITION OF EMPLOYEE UNITS. IN UNDISPUTED CASES, THE DETERMINATION OF APPROPRIATE UNITS SHALL BE MADE BY THE CHIEF ADMINISTRATIVE OFFICER WITHIN THIRTY (30) CALENDAR DAYS AFTER RECEIPT OF A REQUEST FOR CERTIFICATION UNDER SECTION 33-66 OF THIS ARTICLE.

(B) EMPLOYEE UNITS MAY BE ESTABLISHED ON THE BASIS OF GROUPINGS OF EMPLOYEES WHO SHARE A CLEAR AND IDENTIFIABLE COMMUNITY OF INTEREST. SUCH FACTORS AS THOSE EMPLOYEES SHARING COMMON SKILLS, WORKING CONDITIONS, PHYSICAL LOCATIONS, ORGANIZATIONAL STRUCTURES AND INTEGRATED WORK PROCESSES SHALL BE CONSIDERED. A UNIT SHALL NOT BE ESTABLISHED SOLELY ON THE BASIS OF THE EXTENT TO WHICH EMPLOYEES IN A PROPOSED UNIT HAVE ORGANIZED.

(C) DETERMINATION OF UNITS SHALL BE MADE SO AS TO INCLUDE THE LARGEST POSSIBLE NUMBERS OF EMPLOYEES TO AVOID PROLIFERATION AND FRAGMENTATION OF REPRESENTATIVE UNITS. THE PROVISIONS OF THIS SECTION SHALL NOT PRECLUDE THE ESTABLISHMENT OF ONE UNIT TO REPRESENT ALL ELIGIBLE EMPLOYEES. THE NUMBER OF UNITS CERTIFIED SHALL NOT BE GREATER THAN SEVEN (7).

(D) UNITS FOR EMPLOYEES OF THE UNIFORMED SERVICES SHALL BE LIMITED TO EMPLOYEES IN THE RANKS OF CORPORAL OR EQUIVALENT RANK AND BELOW.

(E) IN CASES WHERE THE MATTERS OF UNIT DETERMINATION ARE QUESTIONED, THE DECISION OF THE CHIEF ADMINISTRATIVE OFFICER SHALL BE FINAL AFTER OPPORTUNITY IS PROVIDED FOR THOSE DISPUTING THE DETERMINATION TO BE HEARD BY THE CHIEF ADMINISTRATION OFFICER.

33-66. PROCEDURES FOR CERTIFICATION OF EMPLOYEE ORGANIZATIONS.

33-65. PROCEDURES FOR CERTIFICATION OF AN EMPLOYEE ORGANIZATION.

(a) INITIALLY OR WHERE THERE IS NO OFFICIAL REPRESENTATIVE EMPLOYEE ORGANIZATION, THE CHIEF ADMINISTRATIVE OFFICER, THE CHIEF ADMINISTRATIVE

01 OFFICER, UPON PETITION OF AN EMPLOYEE ORGANIZATION SHOWING WRITTEN EVIDENCE OF  
 02 INTEREST BY AT LEAST ~~THIRTY/(30)~~ 30 PERCENT OF THE EMPLOYEES OF THE  
 03 ~~EMPLOYEE~~ UNIT, SHALL ARRANGE FOR THE CONDUCTING OF A SECRET BALLOT ELECTION  
 04 TO DETERMINE WHETHER THE EMPLOYEES DESIRE SUCH ORGANIZATION TO ACT AS THEIR  
 05 REPRESENTATIVE. FOLLOWING SUCH PETITION, THE ~~CHIEF/ADMINISTRATIVE~~  
 06 ~~OFFICER~~ CHIEF ADMINISTRATIVE OFFICER SHALL GIVE AN APPROPRIATE NOTICE TO  
 07 THE EMPLOYEES ~~INVOLVED~~.

08 (b) AN EMPLOYEE ORGANIZATION SEEKING TO REPRESENT ~~AN/EMPLOYEE~~ THE UNIT  
 09 SHALL SUBMIT TO THE PERSONNEL OFFICE A ROSTER OF ITS OFFICERS AND  
 10 REPRESENTATIVES, A COPY OF ITS CONSTITUTION AND BYLAWS, AND A SCHEDULE OF DUES  
 11 FOR ITS MEMBERS.

12 (c) ELIGIBILITY TO VOTE IN ANY ELECTION FOR CHOICE OF AN OFFICIAL  
 13 REPRESENTATIVE SHALL BE LIMITED TO PERSONS WHO ARE EMPLOYEES ~~WHO/ARE/FILLING~~  
 14 ~~COUNTY/POSITIONS~~ AS OF THE BEGINNING OF THE PAY PERIOD PRECEDING THE  
 15 ELECTION DATE.

16 (d) ELECTIONS WILL BE CONDUCTED BY THE PERSONNEL OFFICE, WHICH MAY USE  
 17 THE SERVICES OF THE ~~STATE/DIVISION/OF/LABOR/AND/INDUSTRY~~ STATE DIVISION OF  
 18 LABOR AND INDUSTRY OR ANY OTHER THIRD PARTY HAVING SIMILAR QUALIFICATIONS.

19 (e) THE BALLOT SHALL CONTAIN THE NAME OF ANY ADDITIONAL EMPLOYEE  
 20 ORGANIZATION SHOWING TIMELY WRITTEN EVIDENCE OF INTEREST BY AT LEAST  
 21 ~~TEN/(10)~~ 10 PERCENT OF THE EMPLOYEES WITHIN THE ~~APPROPRIATE/EMPLOYEE~~  
 22 UNIT. IN EVERY INSTANCE, THE BALLOT SHALL CONTAIN A PROVISION FOR A MARKING  
 23 OF "NO REPRESENTATION." WHERE MORE THAN ONE ~~(1)~~ EMPLOYEE ORGANIZATION IS  
 24 ON THE BALLOT AND NO ONE ~~(1)~~ OF THE ORGANIZATIONS RECEIVES A MAJORITY VOTE  
 25 OF THE EMPLOYEES VOTING, A RUNOFF ELECTION SHALL BE HELD. THE RUNOFF ELECTION  
 26 SHALL CONTAIN THE ~~TWO/(2)~~ 2 CHOICES WHICH RECEIVED THE LARGEST AND SECOND  
 27 LARGEST NUMBER OF VOTES IN THE ORIGINAL ELECTION.

(f) WHEN AN ORGANIZATION RECEIVES AT LEAST ~~FIFTY~~/~~(50)~~ 50 PERCENT OF VALID VOTES CAST IN THE ELECTION, THE ~~CHIEF/ADMINISTRATIVE/OFFICER~~ CHIEF ADMINISTRATIVE OFFICER SHALL CERTIFY IT AS THE OFFICIAL EMPLOYEE ORGANIZATION FOR THE ~~EMPLOYEE~~ UNIT. IF THE MAJORITY VOTE IS FOR "NO REPRESENTATION," THE CHIEF ADMINISTRATIVE OFFICER SHALL SO CERTIFY.

(g) IF, DURING THE 30 DAYS FOLLOWING THE EFFECTIVE DATE OF THIS REVISED ARTICLE, A PETITION IS FILED BY THE INCUMBENT MEET AND CONFER REPRESENTATIVE OF UNIT EMPLOYEES CERTIFIED UNDER THE PRIOR ARTICLE IV OF THIS CHAPTER, AND NO OTHER EMPLOYEE ORGANIZATION FILES A VALID PETITION, AND NO PETITION CALLING FOR AN ELECTION SIGNED BY 20 PERCENT OF UNIT EMPLOYEES HAS BEEN FILED WITH THE CHIEF ADMINISTRATIVE OFFICER, THE INCUMBENT CERTIFIED REPRESENTATIVE SHALL BE CERTIFIED WITHOUT AN ELECTION, PROVIDED IT PRODUCES EVIDENCE, ACCEPTABLE TO THE CHIEF ADMINISTRATIVE OFFICER AND DATED AFTER THE ENACTMENT OF THIS REVISED ARTICLE, THAT A MAJORITY OF THE EMPLOYEES IN THE UNIT DESIRE TO BE REPRESENTED BY THE INCUMBENT REPRESENTATIVE FOR THE PURPOSES OF MEET AND CONFER REPRESENTATION UNDER THE PROVISIONS OF THIS REVISED ARTICLE.

(g) (h) THE ~~COUNTY~~ COUNTY SHALL RECOGNIZE AS THE OFFICIAL EMPLOYEE RELATIONS REPRESENTATIVE AN EMPLOYEE ORGANIZATION ~~WHICH~~ THAT HAS BEEN SELECTED IN ACCORDANCE WITH PROCEDURES OUTLINED IN THIS SECTION.

(h) (i) RECOGNIZING AN EMPLOYEE ORGANIZATION DOES NOT PRECLUDE THE ~~COUNTY~~ COUNTY FROM DEALING WITH RELIGIOUS, SOCIAL, FRATERNAL, PROFESSIONAL, OR OTHER LAWFUL ASSOCIATIONS WITH RESPECT TO MATTERS OR POLICIES ~~WHICH~~ THAT INVOLVE INDIVIDUAL MEMBERS OF THE ASSOCIATIONS OR ARE OF PARTICULAR APPLICABILITY TO IT OR ITS MEMBERS.

(i) (j) NO QUESTION CONCERNING CERTIFICATION MAY BE RAISED BY AN EMPLOYEE OR AN EMPLOYEE ORGANIZATION WITHIN ONE (1) YEAR OF THE DATE OF CERTIFICATION OF AN EMPLOYEE ORGANIZATION OR THE DATE THAT A MAJORITY OF THE

EMPLOYEES VOTING VOTED FOR NO REPRESENTATION.

~~(j)~~ (k) THE ~~COUNTY~~ COUNTY MAY, AFTER DISCUSSIONS WITH AN EMPLOYEE ORGANIZATION AND ON THE BASIS OF WRITTEN AUTHORIZATION FROM EACH EMPLOYEE, PROVIDE FOR DEDUCTION FROM THE PAY OF SUCH EMPLOYEE MONIES IN PAYMENT OF MEMBERSHIP DUES IN A DULY CERTIFIED EMPLOYEE ORGANIZATION. SUCH MONIES SHALL BE REMITTED TO THE EMPLOYEE ORGANIZATION.

~~33/67~~///PROCEDURE/FOR/DECERTIFICATION/OF/EMPLOYEE/ORGANIZATIONS/

33-66. PROCEDURE FOR DECERTIFICATION OF AN EMPLOYEE ORGANIZATION.

(a) AN EMPLOYEE ORGANIZATION SHALL BE SUBJECT TO DECERTIFICATION WHEN ~~THIRTY/(30)~~ 30 PERCENT OF THE EMPLOYEES IN THE ~~EMPLOYEE~~ UNIT PETITION FOR THE EMPLOYEE ORGANIZATION TO BE DECERTIFIED. THE PROCEDURES FOR DETERMINING WHETHER, IN FACT, AN EMPLOYEE ORGANIZATION SHALL BE DECERTIFIED SHALL BE THE SAME AS THOSE PRESCRIBED IN SECTION ~~33-66~~ 33-65 FOR THE CERTIFICATION OF AN EMPLOYEE ORGANIZATION, EXCEPT AS PROVIDED IN SUBSECTION (b) OF THIS SECTION.

(b) IF AN EMPLOYEE ORGANIZATION FAILS TO ADHERE TO ANY OF THE PROVISIONS OF SECTION ~~33-73~~ 33-72 DEALING WITH EMPLOYEE ORGANIZATION RESPONSIBILITIES, THEN:

(1) ITS CERTIFICATION MAY BE REVOKED BY THE ~~CHIEF/ADMINISTRATIVE OFFICER~~ CHIEF ADMINISTRATIVE OFFICER AFTER NOTICE AND AN OPPORTUNITY TO BE HEARD; AND

(2) IT MAY BE DISQUALIFIED BY THE ~~CHIEF/ADMINISTRATIVE/OFFICER~~ CHIEF ADMINISTRATIVE OFFICER FROM PARTICIPATING IN REPRESENTATION ELECTIONS FOR A PERIOD OF UP TO ~~TWO/(2)~~ 2 YEARS AFTER NOTICE AND AN OPPORTUNITY TO BE HEARD.

~~33-68/~~ 33-67. COSTS OF CONDUCTING ELECTIONS.

ANY COST OF CONDUCTING A SECRET BALLOT ELECTION UNDER THIS ARTICLE SHALL



BE BORNE ~~FIFTY/(50)~~ 50 PERCENT BY THE ~~COUNTY~~ COUNTY AND ~~FIFTY/(50)~~ 50  
PERCENT BORNE EQUALLY BY THE EMPLOYEE ORGANIZATION(S) WHOSE NAME(S) APPEAR ON  
THE BALLOTS.

~~33-69/~~ 33-68. COUNTY-EMPLOYEE ORGANIZATION MEETINGS AND DISCUSSIONS.

(a) AN EMPLOYEE ORGANIZATION ~~WHICH~~ THAT HAS BEEN RECOGNIZED BY THE  
~~COUNTY~~ COUNTY ~~PURSUANT/TO~~ UNDER SECTION ~~33-66~~ 33-65 OF THIS ARTICLE  
SHALL BE ENTITLED TO MEET AT REASONABLE TIMES WITH ~~COUNTY~~ COUNTY  
REPRESENTATIVES TO DISCUSS WITH SUCH REPRESENTATIVES PERSONNEL POLICIES,  
PRACTICES, AND MATTERS AFFECTING WORKING CONDITIONS OF THE EMPLOYEE UNIT IT  
REPRESENTS, SO FAR AS DISCUSSIONS MAY BE APPROPRIATE UNDER EXISTING LAWS OR  
REGULATIONS. THE ~~COUNTY~~ COUNTY SHALL MEET A LEAST ~~TWO/(2)~~ 2 TIMES  
ANNUALLY WITH ~~EACH~~ THE CERTIFIED EMPLOYEE ORGANIZATION.

(b) THE REQUIREMENT TO MEET SHALL NOT OBLIGATE EITHER THE ~~COUNTY~~  
COUNTY OR ~~AM~~ THE EMPLOYEE ORGANIZATION TO AGREE TO ANY PROPOSAL OR TO MAKE  
ANY CONCESSION WITH RESPECT TO ANY MATTER DISCUSSED BY THE PARTIES AT SUCH A  
MEETING. ANY DECISION MADE AT ANY SUCH MEETING IS IN NO WAY BINDING UPON THE  
PARTIES.

(c) THE ~~COUNTY~~ COUNTY AND ~~AM~~ THE EMPLOYEE ORGANIZATION MAY, IF  
DESIRED, AND AT THE CONCLUSION OF THEIR DISCUSSIONS, JOINTLY OR SEPARATELY,  
PREPARE WRITTEN POSITION PAPERS ~~WHICH~~ THAT REFLECT FOR FUTURE REFERENCE THE  
RESPECTIVE POSITIONS OF THE PARTIES ON THE ISSUES DISCUSSED AT SUCH MEETINGS.  
SUCH POSITION PAPERS SHALL IN NO WAY LEGALLY BIND ANY PARTY TO THE MATTERS  
EXPRESSED ~~THEREIN/~~ IN THEM, AND THE ~~COUNTY~~ COUNTY SHALL NOT BE OBLIGATED  
TO CONCUR IN A POSITION PAPER ADDRESSING THE INHERENT RIGHT TO MANAGE THE  
~~COUNTY~~ COUNTY GOVERNMENT.

~~33-70/~~ 33-69. EMPLOYEE ORGANIZATION REPRESENTATION OF EMPLOYEE MEMBERS.

(a) AN EMPLOYEE WHO IS A MEMBER OF ~~AM~~ THE EMPLOYEE ORGANIZATION MAY

01 REQUEST AND SHALL BE GRANTED THE RIGHT FOR A MEMBER OR REPRESENTATIVE OF SUCH  
 02 ORGANIZATION TO BE PRESENT IN ANY DISCUSSIONS OR COUNSELING WITH ~~COUNTY~~  
 03 COUNTY REPRESENTATIVES CONCERNING AN INDIVIDUAL GRIEVANCE.

04 (b) ~~AN~~ THE EMPLOYEE ORGANIZATION MAY SUBMIT A GRIEVANCE CONCERNING ANY  
 05 DISPUTE INVOLVING A CLAIM OF VIOLATION, MISINTERPRETATION, OR MISAPPLICATION  
 06 OF THE PERSONNEL REGULATIONS OR WORK PRACTICES OF THE ~~COUNTY~~ COUNTY ON THE  
 07 SAME BASIS AS PROVIDED FOR INDIVIDUAL GRIEVANCES.

08 ~~33-71/~~ 33-70. DISPUTES.

09 ALL DECISIONS OF THE ~~CHIEF/ADMINISTRATIVE/OFFICER~~ CHIEF ADMINISTRATIVE  
 10 OFFICER UNDER THE PROVISIONS OF THIS ARTICLE SHALL BE FINAL, SUBJECT TO APPEAL  
 11 TO THE ~~MERIT/SYSTEM/PROTECTION/BOARD~~ MERIT SYSTEM PROTECTION BOARD WHERE  
 12 PROVIDED BY LAW.

13 ~~33-72/~~ 33-71. COUNTY RESPONSIBILITIES.

14 IT SHALL BE THE RESPONSIBILITY OF THE ~~COUNTY~~ COUNTY NOT TO:

15 (a) INTERFERE WITH, RESTRAIN, OR COERCE AN EMPLOYEE IN THE EXERCISE OF  
 16 THE RIGHTS ASSURED BY THIS ARTICLE;

17 (b) ENCOURAGE OR DISCOURAGE MEMBERSHIP IN AN EMPLOYEE ORGANIZATION BY  
 18 DISCRIMINATION IN REGARD TO HIRING, TENURE, PROMOTION, OR OTHER CONDITIONS OF  
 19 EMPLOYMENT;

20 (c) SPONSOR, CONTROL, OR OTHERWISE ASSIST ~~AN~~ THE EMPLOYEE  
 21 ORGANIZATION; EXCEPT, THAT THE ~~COUNTY~~ COUNTY MAY FURNISH CUSTOMARY AND  
 22 ROUTINE SERVICES AND FACILITIES WHEN CONSISTENT WITH THE BEST INTEREST OF THE  
 23 ~~COUNTY/~~ COUNTY, ITS EMPLOYEES, AND THE ORGANIZATION, AND WHEN THE SERVICES  
 24 AND FACILITIES ARE FURNISHED, IF REQUESTED, ON AN IMPARTIAL BASIS TO  
 25 ORGANIZATIONS HAVING EQUIVALENT STATUS;

26 (d) REFUSE TO ACCORD APPROPRIATE RECOGNITION TO ~~AN~~ THE EMPLOYEE  
 27 ORGANIZATION QUALIFIED FOR SUCH RECOGNITION; OR

(e) REFUSE TO CONSULT, CONFER, OR MEET WITH ~~AN~~ THE EMPLOYEE ORGANIZATION CERTIFIED ~~PURSUANT/TO~~ UNDER THIS ARTICLE.

~~33-73/~~ 33-72. EMPLOYEE ORGANIZATION RESPONSIBILITIES.

\* \* \*

(b) ATTEMPT TO INDUCE THE ~~COUNTY~~ COUNTY TO COERCE AN EMPLOYEE IN THE EXERCISE OF THE RIGHTS UNDER THIS ARTICLE;

(c) COERCE, ATTEMPT TO COERCE, OR DISCIPLINE, FINE, OR TAKE OTHER ECONOMIC SANCTION AGAINST AN EMPLOYEE MEMBER OF AN EMPLOYEE ORGANIZATION AS PUNISHMENT OR REPRISAL, OR FOR THE PURPOSE OF HINDERING OR IMPEDING WORK PERFORMANCE OR THE DISCHARGE OF DUTIES OWED AS AN EMPLOYEE OF THE ~~COUNTY~~ COUNTY;

(d) CALL OR ENGAGE IN A STRIKE, WORK STOPPAGE, OR SLOWDOWN, PICKET THE ~~COUNTY~~ COUNTY IN CONNECTION WITH A STRIKE, WORK STOPPAGE, OR SLOWDOWN IN A ~~COUNTY-EMPLOYEE~~ COUNTY-EMPLOYEE DISPUTE, OR CONDONE ANY SUCH ACTIVITY BY FAILING TO TAKE AFFIRMATIVE ACTION TO PREVENT OR STOP IT;

(e) DISCRIMINATE AGAINST AN EMPLOYEE WITH REGARD TO THE TERMS OR CONDITIONS OF MEMBERSHIP BECAUSE OF RACE, COLOR, RELIGION, CREED, SEX, AGE, NATIONAL ORIGIN, ANCESTRY, OR MARITAL STATUS.

33-73. RESERVED.

33-74. COST-OF-LIVING ADJUSTMENT.

\* \* \*

(d) THIS SECTION IS AUTOMATICALLY REPEALED UPON CERTIFICATION THAT THE COUNTY MERIT SYSTEM EMPLOYEES IN THE UNITS ESTABLISHED UNDER ARTICLE VII ARE REPRESENTED FOR THE PURPOSE OF COLLECTIVE BARGAINING UNDER ARTICLE VII OF THIS CHAPTER.

01           Sec. 2 3. ~~Sections 33-63A and 33-74(d) and Article VII of~~  
 02 Chapter 33 ~~are~~ is added as follows:

03           33-63A // Applicability

04           Upon certification that the employees in the units are represented for  
 05 collective bargaining, this article shall not apply to any person

06           33-74 // Cost-of-living adjustment

07           (d) This section is automatically repealed upon certification that the  
 08 employees in the units are represented for the purpose of  
 09 collective bargaining under Article VII of this chapter

10           Article VII. County Collective Bargaining.

11           33-101. Declaration of policy.

12           It is the public policy of Montgomery County to promote a harmonious,  
 13 peaceful, and cooperative relationship between the County government and its  
 14 employees and to protect the public by assuring, at all times, the responsive,  
 15 orderly, and efficient operation of County government and services. Since  
 16 unresolved disputes in public service are harmful to the public and to  
 17 employees, adequate means should be available for preventing disputes and for  
 18 resolving them when they occur. To that end, it is in the public interest  
 19 that employees have the opportunity to bargain collectively over wages, hours,  
 20 and other terms and conditions of employment, as authorized by Charter Section  
 21 511, through a representative of their choice, or to refrain from collective  
 22 bargaining. It is also in the public interest that the County government and  
 23 a representative of County employees bargain collectively in good faith  
 24 without interference with the orderly process of government and that they  
 25 implement any agreements reached through collective bargaining.

26           The County Council also recognizes that employee organizations and the  
 27 County government each possess substantial means for initiating actions on

01 wages, hours, and working conditions of employees. Therefore, in order to  
02 preserve an appropriate balance between labor and management in the public  
03 service, the County Council states that once the employees voluntarily select  
04 a representative, collective bargaining shall be used in place of, and not in  
05 addition to, existing means for initiating governmental action on subjects  
06 that are defined as appropriate for LIKE collective bargaining in this article.

07 33-102. Definitions.

08 The following terms have the meaning indicated when used in this article:

09 (1) "Agency shop" means a provision in a collective bargaining  
10 agreement requiring, as a condition of continued employment, that  
11 bargaining unit employees pay a service fee not greater than the  
12 monthly membership dues uniformly and regularly required by the  
13 employee organization of all of its members. An agency shop  
14 agreement shall not require an employee to pay initiation fees,  
15 assessments, fines, or any other LIKE collections or their equivalent  
16 as a condition of continued employment. A collective bargaining  
17 agreement shall not require payment of a service fee by any employee  
18 who opposes joining or financially supporting an employee  
19 organization on religious grounds. However, the COLLECTIVE  
20 BARGAINING agreement may require that employee to pay an amount equal  
21 to the service fee to a nonreligious, nonunion charity, or to any  
22 other charitable organization, agreed to by the employee and the  
23 certified representative, WITH PROVISION FOR DISPUTE RESOLUTION IF  
24 THERE IS NOT AGREEMENT, and to give to the employer and the certified  
25 representative written proof of this payment. THE CERTIFIED  
26 REPRESENTATIVE SHALL ADHERE AT ALL TIMES TO ALL FEDERAL  
27 CONSTITUTIONAL CONSTITUTIONAL REQUIREMENTS IN ITS ADMINISTRATION OF

01 ANY AGENCY SHOP SYSTEM MAINTAINED BY IT.

- 02 (2) "Certified representative" means an employee organization chosen to  
03 represent EMPLOYEES AS THEIR EXCLUSIVE BARGAINING AGENT IN one or  
04 both units AS DEFINED IN SECTION 33-105 in accordance with the  
05 procedures of this article.
- 06 (3) "Collective bargaining" means meeting at reasonable times and  
07 places and negotiating in good faith on appropriate subjects as  
08 defined under this article. This article shall not be interpreted to  
09 compel either party to agree to a proposal or make a concession.
- 10 (4) "Employee" means any person who works under the County government  
11 merit system on a continuous full-time, career or part-time, career  
12 basis, except for the following:
- 13 (A) Confidential aides to elected officials.
- 14 (B) All persons who are not covered by the County government merit  
15 system.
- 16 (C) Heads of principal departments, offices, and agencies.
- 17 (D) Deputies and assistants to heads of principal departments,  
18 offices, and agencies.
- 19 (E) Persons who provide direct staff or administrative support to  
20 the head of a principal department, office, or agency, or to a  
21 deputy or assistant within the immediate office of a head of a  
22 principal department, office, or agency.
- 23 (F) Persons who report directly to or whose immediate supervisor is  
24 the County Executive or the Chief Administrative Officer or  
25 their principal aides.
- 26 (G) Persons who work for the office of the County Executive and the  
27 office of the Chief Administrative Officer.

- 01        (H) Persons who work for the County Council.
- 02        (I) Persons who work for the office of the County Attorney.
- 03        (J) Persons who work for the Office of Management and Budget.
- 04        (K) Persons who work for the Personnel Office.
- 05        (L) Persons who work for the Merit System Protection Board.
- 06        (M) Persons who work on a temporary, seasonal, or substitute basis.
- 07        (N) Newly hired persons on probationary status.
- 08        (O) Persons who work for the police department who are represented  
 09        by a certified employee organization under Article V of this  
 10        chapter.
- 11        (P) Officers in the uniformed services (corrections, fire and  
 12        rescue, police, office of the sheriff) in the rank of sergeant  
 13        and above. Subject to any limitations in State law, deputy  
 14        sheriffs below the rank of sergeant are employees.
- 15        (Q) Persons who are members of the State merit system.
- 16        (R) Supervisors, which means persons having authority to do any of  
 17        the following:
- 18            (i) Hire, assign, transfer, lay off, recall, promote, evaluate,  
 19            reward, discipline, suspend, or discharge employees, or  
 20            effectively to recommend any one of these actions.
- 21            (ii) Direct the activity of three or more employees.
- 22            (iii) Adjust or recommend adjustment of grievances.
- 23            ~~(iii) Adjust or recommend adjustment of grievances.~~
- 24        (S) Persons in grade 27 or above, whether or not they are  
 25        supervisors.
- 26        (5) "Employee organization" means any organization that admits  
 27        employees to membership and that has as a primary purpose the

01 representation of employees in collective bargaining.

02 (6) "Employer" means the County Executive and his or her designees.

03 (7) "Lockout" means any action that the employer takes to interrupt or  
04 prevent the continuity of work properly and usually performed by the  
05 employees for the purpose and with the intent of either coercing the  
06 employees into relinquishing rights guaranteed by this article or of  
07 bringing economic pressure on employees for the purpose of securing  
08 the agreement of their certified representative to certain collective  
09 bargaining terms.

10 (8) "Mediation" means an effort by the mediator/fact-finder chosen  
11 under this article to assist confidentially in resolving, through  
12 interpretation, suggestion, and advice, a dispute arising out of  
13 collective bargaining between the employer and the certified  
14 representative.

15 (9) "Strike" means a concerted failure to report for duty, absence,  
16 stoppage of work, or abstinence in whole or in part from the full and  
17 faithful performance of the duties of employment with the employer,  
18 or deviation from normal or proper work duties or activities, where  
19 any of the preceding are done in a concerted manner for the purpose  
20 of inducing, influencing, or coercing the employer in the  
21 determination, implementation, interpretation, or administration of  
22 terms or conditions of employment or of the rights, privileges, or  
23 obligations of employment or of the status, recognition, or authority  
24 of the employee or an employee organization.

25 (10) "Unit" means either of the units defined in section 33-105.

26 (11) When either the female or the male pronoun appears herein, it is to  
27 be read to include both genders.



01 33-103. Labor Relations Administrator.

02 (a) There is established the position of Labor Relations Administrator;  
03 to provide for the effective implementation and administration of  
04 this article concerning selection, certification and decertification  
05 procedures, prohibited practices, and the choice of a mediator/  
06 fact-finder. The Labor Relations Administrator shall exercise the  
07 following powers and perform the following duties and functions:

- 08 (1) Periodically adopt, amend, and rescind, under method (1) of  
09 section 2A-15 of this Code, regulations and procedures for the  
10 implementation and administration of the duties of the Labor  
11 Relations Administrator under this article.
- 12 (2) Request from the employer or an employee organization, and the  
13 employer or such organization may at its discretion provide, any  
14 relevant assistance, service, and data that will enable her  
15 properly to carry out her duties under this article.
- 16 (3) Hold hearings and make inquiries, administer oaths and  
17 affirmations, examine witnesses and documents, take testimony  
18 and receive evidence, and compel by issuance of subpoenas the  
19 attendance of witnesses and the production of relevant documents.
- 20 (4) Hold and conduct elections for certification or decertification  
21 pursuant to the provisions of this article and issue the  
22 certification or decertification.
- 23 (5) Investigate and attempt to resolve or settle, as provided in  
24 this article, charges of engaging in prohibited practices.  
25 However, if the employer and a certified representative have  
26 negotiated a valid grievance procedure, the Labor Relations  
27 Administrator shall defer to that procedure for the resolution

01 of disputes properly submissible to the procedure absent a  
02 showing that the deferral results in the application of  
03 principles repugnant to this article. Furthermore, the Labor  
04 Relations Administrator shall defer to State procedures in those  
05 matters which are governed by the Law-Enforcement Officers' Bill  
06 of Rights, Article 27, Sections 727-734D, Annotated Code of  
07 Maryland.

08 (6) Determine unresolved issues of a person's inclusion in or  
09 exclusion from the units.

10 (7) Obtain any necessary support services and make necessary  
11 expenditures in the performance of duties to the extent provided  
12 for these purposes in the annual budget of Montgomery County.

13 (8) Exercise any other powers and perform any other duties and  
14 functions as may be specified in this article.

15 (b) (1) The Labor Relations Administrator must be a person with  
16 experience as a neutral in the field of labor relations and must  
17 not be a person who, on account of vocation, employment, or  
18 affiliation, can be classed as a representative of the interest  
19 of the employer or any employee organization.

20 (2) The first Labor Relations Administrator is appointed by the  
21 County Executive, with the confirmation of the County Council,  
22 serves for a term of 4 years, and is eligible for reappointment.

23 (3) After the initial term of office of the Labor Relations  
24 Administrator provided in subsection (b)(2), the County  
25 Executive shall thereafter appoint the Labor Relations  
26 Administrator for a term of 5 years from a list of 5 nominees  
27 agreed upon by any certified ~~employee~~ representative(s) and

01 the Chief Administrative Officer, which list may include the  
02 incumbent Labor Relations Administrator. Such appointment must  
03 be confirmed by the County Council. If the County Council does  
04 not confirm the appointment, the new appointment shall be from a  
05 new agreed list of 5 nominees. Should there be no certified  
06 representative, the Labor Relations Administrator shall be  
07 appointed under the procedure and for the term set forth in  
08 subsection (b)(2).

09 (c) The Labor Relations Administrator will be paid a daily fee as set  
10 forth by contract with the County, and will be reimbursed for  
11 necessary expenses.

12 33-104. Employee rights.

13 (a) Employees have the right to:

14 (1) form, join, support, contribute to, or participate in, or to  
15 refrain from forming, joining, supporting, contributing to, or  
16 participating in, any employee organization or its lawful  
17 activities; and

18 (2) be represented fairly by their certified representative, if any.

19 (b) The employer has the duty to extend to the certified representative  
20 the exclusive right to represent the employees for the purposes of  
21 collective bargaining, including the orderly processing and  
22 settlement of grievances as agreed by the parties in accordance with  
23 this article.

24 (c) A certified representative serves as the EXCLUSIVE bargaining agent  
25 for all employees in the unit for which it is certified and has the  
26 duty to represent fairly and without discrimination all employees in  
27 the unit without regard to whether the employees are members of the

01 employee organization, pay dues or other contributions to it, or  
02 participate in its affairs. However, it is not a violation of this  
03 duty for a certified representative to seek enforcement of an agency  
04 shop provision in a valid collective bargaining agreement.

05 (d) The right of a certified representative to receive voluntary dues or  
06 service fee deductions or agency shop provisions shall be determined  
07 through negotiations, unless the authority to negotiate these  
08 provisions has been suspended under this article. A collective  
09 bargaining agreement may not include a provision requiring membership  
10 in, participation in the affairs of, or contributions to an employee  
11 organization other than an agency shop provision.

12 33-105. Units for collective bargaining.

13 (a) There are two units for collective bargaining and for purposes of  
14 certification and decertification. Persons in these units are all  
15 County government merit system employees working on a continuous  
16 full-time, career or part-time, career basis, excluding the  
17 categories listed as exceptions to the definition of employee in  
18 section 33-102(4) of this article. The employees are divided into 2  
19 units in accordance with the following descriptions:

20 (1) Service, labor, and trades (SLT) unit. This unit is composed  
21 of all eligible classes that are associated with service/  
22 maintenance and skilled crafts. This means job classes in which  
23 workers perform duties that result in or contribute to the  
24 comfort and convenience of the general public or that contribute  
25 to the upkeep and care of buildings, facilities, or grounds of  
26 public property. Workers in this group may operate specialized  
27 machinery or heavy equipment. These job classes may also

require special manual skill and a thorough and comprehensive knowledge of the processes involved in the work that is acquired through on the job training and experience or through apprenticeship or other formal training programs.

(2) Office, professional, and technical (OPT) unit. This unit is composed of all eligible classes associated with office, professional, paraprofessional, and technical functions.

(A) Office. Job classes in which workers are responsible for internal and external communication, recording and retrieval of data and/or information, and other paperwork required in an office.

(B) Professional. Job classes that require special and theoretical knowledge that is usually acquired through college training or through work experience and other training that provides comparable knowledge.

(C) Paraprofessional. Job classes in which workers perform, in a supportive role, some of the duties of a professional or technician. These duties usually require less formal training and/or experience than is normally required for professional or technical status.

(D) Technical. Job classes that require a combination of basic scientific or technical knowledge and manual skill that can be obtained through specialized post secondary school education or through equivalent on the job training.

(b) Specific job classes included in these units of representation, and not otherwise excluded under section 33-102(4), shall be based on the designations made by the Chief Administrative Officer under the prior

01 meet and confer process. In the event a new classification is  
02 created by the County, or an existing classification's duties and  
03 responsibilities are substantially changed, the County Personnel  
04 Director must place the classification in one of the units or state  
05 that the classification falls within one of the exceptions to the  
06 definition of employee under this article within 60 days of the  
07 creation or substantial alteration of the class and must publish the  
08 decision in the Montgomery County Register. Any individual or  
09 certified representative disagreeing with the decision of the  
10 Personnel Director may, within 10 days of publication, file  
11 objections to the decision with the Labor Relations Administrator,  
12 with notice to the Personnel Director.

13 The Labor Relations Administrator shall promptly decide the  
14 question on the basis of the duties and responsibilities of the job  
15 classification, the unit definition, and the community of interests  
16 between and among employees in the job classification and collective  
17 bargaining unit.

18 33-106. Selection, certification, and decertification procedures.

19 (a) The certification or decertification of an employee organization as  
20 the representative of a unit for the purpose of collective bargaining  
21 shall be initiated in accordance with the following procedures:

22 (1) Any employee organization seeking certification as  
23 representative of a unit shall file a petition with the Labor  
24 Relations Administrator stating its name, address, and its  
25 desire to be certified. The employee organization shall also  
26 send a copy of the petition, ~~not~~ including ~~the/names A~~  
27 COPY OF THE SIGNATURES of the supporting employees ON THE

PETITION, to the employer. The petition shall contain the uncoerced signatures of 30 percent of the employees within the unit signifying their desire to be represented by the employee organization for purposes of collective bargaining.

(2) If an employee organization has been certified, an employee within the unit may file a petition with the Labor Relations Administrator for decertification of this certified representative. The employee shall also send a copy of the petition to the employer and the certified representative, not including the names of the supporting employees. The petition shall contain the uncoerced signatures of 30 percent of the employees within the unit alleging that the employee organization presently certified is no longer the choice of the majority of the employees in the unit.

(3) Petitions may be filed within 30 days following the date on which this article becomes effective. Thereafter, if a lawful collective bargaining agreement is not in effect, petitions may be filed between September 1 and September 30 of any year, but not sooner than 22 months after an election held under this section.

(4) If a lawful collective bargaining agreement is in effect, a petition filed under this section shall not be entertained unless it is filed during September of the final year of the agreement.

(b) If the Labor Relations Administrator determines that a petition is properly supported and timely filed, she shall cause an election of all eligible employees to be held within a reasonable time, but no

01 later than October 20 of any year, to determine if and by whom the  
02 employees wish to be represented, as follows:

03 (1) All elections shall be conducted under the supervision of the  
04 Labor Relations Administrator and shall be conducted by secret  
05 ballot at the time and place that she directs. The Labor  
06 Relations Administrator may select and retain the services of an  
07 agency of the State of Maryland RESPONSIBLE FOR CONDUCTING LABOR  
08 ELECTIONS, or a similarly neutral body, to assist in conducting  
09 the election.

10 (2) The election ballots shall contain, as choices to be made by the  
11 voter, the names of the petitioning or certified employee  
12 organization, the name or names of any other employee  
13 organization showing written proof at least 10 days before the  
14 election of at least 10 percent representation of the employees  
15 within the unit IN THE SAME MANNER AS DESCRIBED IN PARAGRAPH  
16 (a)(1) OF THIS SECTION, and a choice that the employee does not  
17 desire to be represented by any of the named employee  
18 organizations.

19 (3) The employer and each party to the election may be represented  
20 by observers selected in accordance with limitations and  
21 conditions that the Labor Relations Administrator may prescribe.

22 (4) Observers may challenge for good cause the eligibility of any  
23 person to vote in the election. Challenged ballots shall be  
24 impounded pending either agreement of the parties as to the  
25 validity of the challenge or the Labor Relations Administrator's  
26 decision as to the validity of the challenge, unless the number  
27 of challenges is not determinative, in which case the challenged



01 ballots shall be destroyed.

02 (5) After the polls have been closed, the valid ballots cast shall  
03 be counted by the Labor Relations Administrator in the presence  
04 of the observers.

05 (6) The Labor Relations Administrator shall immediately prepare and  
06 serve upon the employer and each of the parties a report  
07 certifying the results of the election. If an employee  
08 organization receives the votes of a majority of the employees  
09 who voted, the Labor Relations Administrator shall certify the  
10 employee organization so elected as the exclusive agent.

11 (7) If no employee organization receives the votes of a majority of  
12 the employees who voted, the Labor Relations Administrator shall  
13 not certify a representative. Unless a majority of the  
14 employees who vote choose "no representative", a runoff election  
15 shall be conducted. The runoff election shall contain the 2  
16 choices that received the largest and second largest number of  
17 votes in the original election.

18 (c) The Labor Relations Administrator's certification of results is final  
19 unless within 7 days after service of the report and the  
20 certification, any party serves on all other parties and files with  
21 the Labor Relations Administrator objections to the election.  
22 Objections shall be verified and shall contain a concise statement of  
23 facts constituting the grounds for the objections. The Labor  
24 Relations Administrator shall investigate the objections and, if  
25 substantial factual issues exist, shall hold a hearing. Otherwise,  
26 she may determine the matter without a hearing. The Labor Relations  
27 Administrator may invite, either by rule or by invitation, written or

01. oral argument to assist her in determining the merits of the  
02 objections. If the Labor Relations Administrator finds that the  
03 election was conducted in substantial conformity with this article,  
04 she shall confirm the certification initially issued. If the Labor  
05 Relations Administrator finds that the election was not held in  
06 substantial conformity with this article, then she shall hold another  
07 election under this section.

08 (d) The cost of conducting an election shall be paid by the County.

09 (e) If, during the 30 days following the effective date of this article,  
10 a petition is filed by the incumbent representative of unit employees  
11 certified under Article IV of this chapter, and no other employee  
12 organization files a valid petition, and no petition calling for an  
13 election signed by ~~10~~ 20 percent of unit employees has been filed  
14 with the Labor Relations Administrator, the incumbent certified  
15 representative shall be certified without an election, provided it  
16 produces evidence, acceptable to the Labor Relations Administrator  
17 and dated after the enactment of this article, that a majority of the  
18 employees in the unit desire to be represented by the incumbent  
19 representative for the purposes of collective bargaining under the  
20 provisions of this article.

21 33-107. Collective bargaining.

22 (a) Duty to bargain; matters subject to bargaining.

23 Upon certification of an employee organization, the employer and the  
24 certified representative have the duty to bargain collectively with  
25 respect to the following subjects:

26 (1) Salary and wages, including the percentage of the increase in  
27 the salary and wages budget that will be devoted to merit

increments and cash awards, provided that salaries and wages shall be uniform for all employees in the same classification.

(2) With respect to pension and retirement benefits, only defined contribution plans for new employees or current employees who choose to transfer from a defined benefit plan, provided that bargaining rights regarding such plans will not accrue unless and until the county has enacted a law establishing such plans.  
PENSION AND OTHER RETIREMENT BENEFITS SHALL BE NEGOTIABLE, FOR ACTIVE EMPLOYEES ONLY, ONE YEAR AFTER THE EFFECTIVE DATE OF THIS ARTICLE.

(3) Employee benefits such as insurance, leave, holidays, and vacations, but not including pension and retirement benefits except to the extent stated in subsection (a)(2).

(4) Hours and working conditions.

(5) Provisions for the orderly processing and settlement of grievances concerning the interpretation and implementation of a collective bargaining agreement, which may include:

(A) binding third party arbitration, provided that the arbitrator shall have no authority to amend, add to, or subtract from the provisions of the collective bargaining agreement; and

(B) provisions for exclusivity of forum.

(6) Matters affecting the health and safety of employees.

(7) Amelioration of the effect on employees when the exercise of employer rights listed in subsection (b) causes a loss of existing jobs in the unit.

01           **(b) Employer rights.**

02                   This article and any agreement made under it shall not impair  
03           the right and responsibility of the employer to perform the following:

04           (1) Determine the overall budget and mission of the employer and any  
05           agency of County government.

06           (2) Maintain and improve the efficiency and effectiveness of  
07           operations.

08           (3) Determine the services to be rendered and the operations to be  
09           performed.

10           (4) Determine the overall organizational structure, methods,  
11           processes, means, job classifications, and personnel by which  
12           operations are to be conducted and the location of facilities.

13           (5) Direct and supervise employees.

14           (6) Hire, select, and establish the standards governing promotion of  
15           employees, and classify positions.

16           (7) Relieve employees from duties because of lack of work or funds,  
17           or under conditions when the employer determines continued work  
18           would be inefficient or nonproductive.

19           (8) Take actions to carry out the mission of government in  
20           situations of emergency.

21           (9) Transfer, assign, and schedule employees.

22           (10) Determine the size, grades, and composition of the work force.

23           (11) Set the standards of productivity and technology.

24           (12) Establish employee performance standards and evaluate employees,  
25           except that evaluation procedures shall be a subject for  
26           bargaining.

27           (13) Make and implement systems for awarding outstanding service

increments, extraordinary performance awards, and other merit awards.

(14) Introduce new or improved technology, research, development, and services.

(15) Control and regulate the use of machinery, equipment, and other property and facilities of the employer, subject to subsection (a)(6) of this section.

(16) Maintain internal security standards.

(17) Create, alter, combine, contract out, or abolish any job classification, department, operation, unit, or other division or service, provided that no contracting of work which will displace employees may be undertaken by the employer unless 90 days prior to signing the contract, OR SUCH OTHER DATE OF NOTICE AS AGREED BY THE PARTIES, written notice has been given to the certified representative.

(18) Suspend, discharge, or otherwise discipline employees for cause, except that, subject to Charter section 404, any such action may be subject to the grievance procedure set forth in the collective bargaining agreement.

(19) Issue and enforce rules, policies, and regulations necessary to carry out these and all other managerial functions which are not inconsistent with this law, Federal or State law, or the terms of the collective bargaining agreement.

(c) Exemption.

This article shall not be construed to limit the discretion of the employer voluntarily to discuss with the representatives of its employees any matter concerning the employer's exercise of any of the

01 rights set forth in this section. However, these matters shall not  
02 be subject to bargaining.

- 03 (d) The public employer rights set forth in this section are to be  
04 considered a part of every agreement reached between the employer and  
05 an employee organization.

06 33-108. Bargaining, impasse, fact-finding, and legislative procedures.

- 07 (a) Collective bargaining shall begin no later than November 1 before the  
08 beginning of a fiscal year for which there is no agreement between  
09 the employer and the certified representative (EXCEPT THAT IN 1986,  
10 COLLECTIVE BARGAINING MAY BEGIN AS LATE AS DECEMBER 1) and shall be  
11 finished on or before January 15. The resolution of a bargaining  
12 impasse or fact-finding shall be finished by February 1.

- 13 (b) Any provision for automatic renewal or extension of a collective  
14 bargaining agreement is void. An agreement is not valid if it  
15 extends for less than one year or for more than 3 years. All  
16 agreements become effective July 1 and end June 30.

- 17 (c) A collective bargaining agreement becomes effective only after  
18 ratification by the employer and by the certified representative.  
19 The certified representative may provide its own rules for  
20 ratification procedures.

- 21 (d) Before November 10 of any year in which the employer and the  
22 certified representative bargain collectively, the Labor Relations  
23 Administrator shall appoint a mediator/fact-finder, who may be a  
24 person recommended to her by both parties. The mediator/fact-finder  
25 shall be available during the period from January 2 to February 1.  
26 Fees and expenses of the mediator/fact-finder shall be shared equally  
27 by the employer and the certified representative.

- 01        (e) (1) During the course of collective bargaining, either party may  
02        declare an impasse and request the services of the  
03        mediator/fact-finder, or the parties may jointly request his  
04        services before declaration of an impasse. If the parties do  
05        not reach an agreement by January 15, an impasse exists.
- 06        (2) The dispute shall be submitted to the mediator/fact-finder  
07        whenever an impasse has been reached, or before that as provided  
08        in subsection (e)(1). The mediator/fact-finder shall engage in  
09        mediation by bringing the parties together voluntarily under  
10        such favorable circumstances as will tend to bring about the  
11        settlement of the dispute.
- 12        (3) If and when the mediator/fact-finder finds in his sole  
13        discretion that the parties are at a bona fide impasse, he shall  
14        implement the following fact-finding process:
- 15        (A) He shall require the parties to submit jointly a  
16        memorandum of all items previously agreed upon, and  
17        separate memoranda of their proposals on all items not  
18        previously agreed upon.
- 19        (B) He may require the parties to submit evidence or make oral  
20        or written argument in support of their proposals. He may  
21        hold a hearing for this purpose at a time, date, and place  
22        selected by him. This hearing shall not be open to the  
23        public.
- 24        (C) On or before February 1, the mediator/fact-finder shall  
25        issue a report of his findings of fact and recommendations  
26        on those matters still in dispute between the parties.  
27        The report shall be submitted to the parties but shall not

01 be made public at this time.

02 (D) In making findings of fact and recommendations, the  
03 mediator/fact-finder may take into account only the  
04 following factors:

05 (i) Past collective bargaining agreements between the  
06 parties, including the past bargaining history that  
07 led to the agreements, or the pre-collective  
08 bargaining history of employee wages, hours,  
09 benefits, and working conditions.

10 (ii) Comparison of wages, hours, benefits, and  
11 conditions of employment of similar employees of  
12 other public employers in the Washington  
13 Metropolitan Area and in Maryland.

14 (iii) Comparison of wages, hours, benefits, and  
15 conditions of employment of other Montgomery County  
16 personnel.

17 (iv) Wages, benefits, hours, and other working  
18 conditions of similar employees of private  
19 employers in Montgomery County.

20 (v) The interest and welfare of the public.

21 (vi) The ability of the employer to finance economic  
22 adjustments and the effect of the adjustments upon  
23 the normal standard of public services provided by  
24 the employer.

25 (f) After receiving the report of the mediator/fact-finder, the parties  
26 shall meet again to bargain. If 10 days after the parties receive  
27 the report they have not reached full agreement, or if either party



01 does not accept, in whole or in part; the recommendations of the  
02 mediator/fact-finder, the report of the mediator/fact-finder, WITH  
03 RECOMMENDATIONS ON AGREED ITEMS DELETED, shall be made public by  
04 sending it to the Council. The mediator/fact-finder shall also send  
05 the Council the joint memorandum of items agreed upon, up-dated with  
06 any items later agreed upon. The parties shall also send to the  
07 Council separate memoranda stating their positions on matters still  
08 in dispute.

09 (g) The budget that the employer submits to the Council shall include the  
10 items that have been agreed to, as well as the employer's position on  
11 matters still in dispute. Any agreed OR DISPUTED term or condition  
12 submitted to the Council that requires an appropriation of funds, or  
13 the enactment, repeal, or modification of any County law or  
14 regulation, OR WHICH HAS OR MAY HAVE A PRESENT OR FUTURE FISCAL  
15 IMPACT, MAY BE ACCEPTED OR REJECTED IN WHOLE OR IN PART BY THE  
16 COUNCIL. SUCH TERMS OR CONDITIONS shall be identified to the Council  
17 by ~~the/employer~~ EITHER OR BOTH PARTIES. The employer shall make a  
18 good faith effort to have THE COUNCIL TAKE ACTION TO IMPLEMENT any  
19 term or condition ~~that/has/been~~ TO WHICH THE PARTIES HAVE agreed  
20 ~~to/implemented/by/Council/action.~~

21 (h) The Council may hold a public hearing to enable the parties and the  
22 public to testify on the agreement and the recommendations for  
23 resolving bargaining disputes.

24 (i) On or before April 15, the Council shall indicate by a majority vote  
25 its intention to appropriate or otherwise implement the items that  
26 have been agreed to, or its intention not to do so, and shall state  
27 its reasons for any intent to reject any part of the items, OF THE

01 KIND SPECIFIED IN SUBSECTION (g), that have been agreed to. The  
02 Council shall also indicate by a majority vote its position on  
03 disputed matters WHICH COULD REQUIRE AN APPROPRIATION OF FUNDS OR  
04 ENACTMENT, REPEAL, OR MODIFICATION OF ANY COUNTY LAW OR REGULATION,  
05 OR WHICH HAVE PRESENT OR FUTURE FISCAL IMPACT.

06 (j) Then the Council shall designate a representative to meet with the  
07 parties and present the Council's views in the parties' further  
08 ~~negotiations~~ NEGOTIATION on disputed matters and/or agreed matters  
09 that the Council has indicated its intention to reject. The results  
10 of the negotiation, whether a complete or a partial agreement, shall  
11 be submitted to the Council on or before May 1. The Council may  
12 extend this deadline for no more than one week. Any agreement shall  
13 provide for automatic reduction or elimination of wage and/or  
14 benefits adjustments if:

- 15 (1) the Council does not take action necessary to implement the  
16 agreement, or a part of it;  
17 (2) funds are not appropriated; or  
18 (3) lesser amounts than those stated in the agreement are  
19 appropriated.

20 (k) The Council shall take whatever actions it considers required by the  
21 public interest with respect to matters still in dispute between the  
22 parties. However, those actions shall not be part of the agreement  
23 between the parties unless the parties specifically incorporate them  
24 in the agreement.

25 33-109. Prohibited practices.

26 (a) The employer or its agents or representatives are prohibited from any  
27 of the following:

- 01       (1) Interfering with, restraining, or coercing employees in the  
02       exercise of any rights granted to them under this article.
- 03       (2) Dominating or interfering with the formation or administration  
04       of any employee organization or contributing financial or other  
05       support to it, under an agreement or otherwise. However, the  
06       employer and a certified representative may agree to and apply  
07       an agency shop provision under this article and a voluntary dues  
08       or service fee deduction provision, and may agree to reasonable  
09       use of County facilities for communicating with employees.
- 10       (3) Encouraging or discouraging membership in any employee  
11       organization by discriminating in hiring, tenure, wages, hours,  
12       or conditions of employment. However, nothing in this article  
13       precludes an agreement from containing a provision for an agency  
14       shop.
- 15       (4) Discharging or discriminating against a public employee because  
16       she or he files charges, gives testimony, or otherwise lawfully  
17       aids in the administration of this article.
- 18       (5) Refusing to bargain collectively with the certified  
19       representative.
- 20       (6) Refusing to reduce to writing or refusing to sign a bargaining  
21       agreement that has been agreed to in all respects.
- 22       (7) Refusing to process or arbitrate a grievance if required under a  
23       grievance procedure contained in a collective bargaining  
24       agreement.
- 25       (8) Directly or indirectly opposing the appropriation of funds or  
26       the enactment of legislation by the County Council to implement  
27       an agreement reached between the employer and the certified

01 representative under this article.

02 (9) Engaging in a lockout of employees.

03 (b) Employee organizations, their agents, representatives, and persons  
04 who work for them are prohibited from any of the following:

05 (1) Interfering with, restraining, or coercing the employer or  
06 employees in the exercise of any rights granted under this  
07 article.

08 (2) Restraining, coercing, or interfering with the employer in the  
09 selection of its representative for the purposes of collective  
10 bargaining or the adjustment of grievances.

11 (3) Refusing to bargain collectively with the employer if the  
12 employee organization is the certified representative.

13 (4) Refusing to reduce to writing or refusing to sign a bargaining  
14 agreement which has been agreed to in all respects.

15 (5) Hindering or preventing, by threats of violence, intimidation,  
16 force, or coercion of any kind, the pursuit of any lawful work  
17 or employment by any person, public or private, or obstructing  
18 or otherwise unlawfully interfering with the entrance to or exit  
19 from any place of employment, or obstructing or unlawfully  
20 interfering with the free and uninterrupted use of public roads,  
21 streets, highways, railways, airports, or other ways of travel  
22 or conveyance by any person, public or private.

23 (6) Hindering or preventing by threats, intimidation, force,  
24 coercion or sabotage, the obtaining, use, or disposition of  
25 materials, supplies, equipment, or services by the employer.

26 (7) Taking or retaining unauthorized possession of property of the  
27 employer, or refusing to do work or use certain goods or

01 materials as lawfully required by the employer.

02 (8) Causing or attempting to cause the employer to pay or deliver or  
03 agree to pay or deliver any money or other thing of value, in  
04 the nature of an exaction, for services which are neither  
05 performed nor to be performed.

06 (c) A charge of prohibited practice may be filed by the employer, an  
07 employee organization, or any individual employee. The charge or  
08 charges shall be filed with the Labor Relations Administrator, and  
09 copies shall be sent to the party alleged to have committed a  
10 prohibited practice. All charges shall contain a statement of facts  
11 sufficient to enable the Labor Relations Administrator to investigate  
12 the charge. The Labor Relations Administrator may request withdrawal  
13 of and, if necessary, summarily dismiss charges if they are  
14 insufficiently supported in fact or in law to warrant a hearing. The  
15 Labor Relations Administrator has the authority to maintain whatever  
16 independent investigation she determines is necessary and to develop  
17 regulations for an independent investigation. If, upon  
18 investigation, the Labor Relations Administrator finds that a charge  
19 is sufficiently supported to raise an issue of fact or law, she  
20 shall, if she is unable to achieve settlement or resolution of the  
21 matter, hold a hearing on the charge after notification to the  
22 parties. In any hearing, charging parties shall present evidence in  
23 support of the charges, and the party or parties charged shall have  
24 the right to file an answer to the charges, to appear in person or  
25 otherwise and to present evidence in defense against the charges.

26 (d) If the Labor Relations Administrator determines that the person  
27 charged has committed a prohibited practice, she shall make findings

01 of fact and conclusions of law and may issue an order requiring the  
02 person charged to cease and desist from the prohibited practice, and  
03 may take affirmative actions that will remedy the violation of this  
04 article. Remedies of the Labor Relations Administrator include  
05 reinstating employees with or without back pay, making employees  
06 whole for any loss relating to County employment suffered as a result  
07 of any prohibited practices, or withdrawing or suspending the  
08 employee organization's authority to negotiate or continue an agency  
09 shop provision or a voluntary dues or service fee deduction  
10 provision. If the Labor Relations Administrator finds that the party  
11 charged has not committed any prohibited practices, she shall make  
12 findings of fact and conclusions of law and issue an order dismissing  
13 the charges.

- 14 (e) The Labor Relations Administrator shall not receive or entertain  
15 charges based upon an alleged prohibited practice occurring more than  
16 6 months before the filing of the charge.

17 33-110. Expression of views.

- 18 (a) The expression or dissemination of any views, argument, or opinion,  
19 whether orally, in writing, or otherwise, does not constitute and is  
20 not evidence of a prohibited practice under any of the provisions of  
21 this law, nor is it grounds for invalidating any election conducted  
22 under this law if the expression or dissemination does not contain a  
23 threat of reprisal or promise of benefit.
- 24 (b) Recognizing an employee organization does not preclude the County  
25 from dealing with religious, social, fraternal, professional, or  
26 other lawful associations with respect to matters or policies that  
27 involve individual members of the associations or are of particular

01 applicability to it or its members.

02 33-111. Strikes and lockouts.

- 03 (a) An employee or employee organization shall not either directly or  
04 indirectly cause, instigate, encourage, condone, or engage in any  
05 strike, nor the employer in any lockout. An employee or employee  
06 organization shall not obstruct, impede, or restrict, either directly  
07 or indirectly, any attempt to terminate a strike.
- 08 (b) The employer shall not pay, reimburse, make whole, or otherwise  
09 compensate any employee for or during the period when that employee  
10 is directly or indirectly engaged in a strike, nor shall the employer  
11 thereafter compensate an employee who struck for wages or benefits  
12 lost during the strike.
- 13 (c) If an employee or employee organization violates the provisions of  
14 this section, the employer, after adequate notice and a fair hearing  
15 before the Labor Relations Administrator who finds that the  
16 violations have occurred and finds that any or all of the following  
17 actions are necessary in the public interest, may impose any of the  
18 following sanctions, subject to the Law-Enforcement Officers' Bill of  
19 Rights, Article 27, Sections 727-734D, Annotated Code of Maryland:
- 20 (1) Impose disciplinary action, including dismissal from employment,  
21 on employees engaged in the conduct.
- 22 (2) Terminate or suspend the employee organization's dues deduction  
23 privilege, if any.
- 24 (3) Revoke the certification of and disqualify the employee  
25 organization from participation in representation elections for  
26 a period up to a maximum of 2 years.
- 27 (d) This article does not prohibit an employer or a certified employee

01 organization from seeking any remedy available in a court of  
02 competent jurisdiction.

03 33-112. Effect of prior enactments.

04 Any/laws,/executive/orders,/or/regulations/adopted/by/the/County/and/any  
05 department/or/agency/of/the/County/that/are/or/may/be/considered  
06 inconsistent/with/the/provisions/of/this/article/shall/not/be/held/to/be  
07 repealed/or/modified/until/they/are/specifically/repealed/or/modified/by/the  
08 County/or/any/department/or/agency/of/the/County/

09 (a) NOTHING CONTAINED IN THIS ARTICLE SHALL BE CONSTRUED TO REPEAL ANY  
10 LAW, EXECUTIVE ORDER, RULE, OR REGULATION ADOPTED BY THE COUNTY OR  
11 ANY OF ITS DEPARTMENTS OR AGENCIES THAT IS NOT INCONSISTENT WITH THE  
12 PROVISIONS OF THIS ARTICLE.

13 (b) ANY EXECUTIVE ORDER, RULE, OR REGULATION OF THE COUNTY OR ANY OF ITS  
14 DEPARTMENTS OR AGENCIES THAT REGULATES ANY SUBJECT THAT IS  
15 BARGAINABLE UNDER THIS ARTICLE SHALL NOT BE HELD TO BE REPEALED OR  
16 MODIFIED BY A PROVISION OF A COLLECTIVE BARGAINING AGREEMENT  
17 NEGOTIATED UNDER THIS ARTICLE EXCEPT TO THE EXTENT THAT THE  
18 APPLICATION OF THE ORDER, RULE, OR REGULATION IS INCONSISTENT WITH  
19 THE PROVISION IN THE COLLECTIVE BARGAINING AGREEMENT. HOWEVER, IF  
20 THE INCONSISTENT ORDER, RULE, OR REGULATION IS SUBJECT TO AND HAS  
21 RECEIVED COUNCIL APPROVAL, THE COLLECTIVE BARGAINING AGREEMENT SHALL  
22 NOT GOVERN UNLESS THE ORDER, RULE, OR REGULATION WAS IDENTIFIED TO  
23 THE COUNCIL BY THE PARTIES PRIOR TO THE COUNCIL'S RATIFICATION OF THE  
24 COLLECTIVE BARGAINING AGREEMENT, AS REQUIRED BY SECTION 33-108(g); OR  
25 UNLESS THE ORDER, RULE, OR REGULATION IS REPEALED OR MODIFIED BY THE  
26 COUNCIL.



Sec. 3. Severability.

If a court holds that part of this act is invalid, the invalidity does not affect other parts.

Sec. 4. Effective Date.

This act takes effect 91 days after it becomes law.

Approved:

William E. Hanna, Jr.  
William E. Hanna, Jr., President, County Council

June 27, 1986  
Date

Approved:

Charles W. Gilchrist  
Charles W. Gilchrist, County Executive

June 30, 1986  
Date

This is a correct copy of Council action.

Kathleen A. Freedman  
Kathleen A. Freedman, Secretary, County Council

7/1/86  
Date

Bill No.: 48-87  
Concerning: Collective Bargaining-  
Fire/Rescue Employees  
Draft No. & Date: 2 - 10/20/87  
Introduced: 10/20/87  
Enacted: 11/17/87  
Executive: November 20, 1987  
Effective: November 20, 1987  
Sunset Date: None  
Ch. 19, Laws of Mont. Co., FY 88

COUNTY COUNCIL  
FOR MONTGOMERY COUNTY, MARYLAND

---

By: Council President at the Request of the County Executive

---

AN EMERGENCY ACT to:

- (1) establish a Fire/Rescue collective bargaining unit;
- (2) establish a filing date for certification petitions for new bargaining units; and
- (3) generally amend certain collective bargaining provisions.

By amending

Montgomery County Code  
Chapter 33, Personnel  
Sections 33-105 and 33-106

EXPLANATION: Boldface indicates a heading or a defined term.  
Underlining indicates text that is added to existing law by the original bill.  
[Single boldface brackets] indicate text that is deleted from existing law by the original bill.  
Double underlining indicates text that is added to the bill by amendment.  
[[Double boldface brackets]] indicate text that is deleted from existing law or the bill by amendment.  
\* \* \* indicates existing law unaffected by the bill.

The County Council for Montgomery County, Maryland, approves the following act:

Sec. 1 Section 33-105 is amended as follows:

33-105. Units for Collective Bargaining.

(a) There are [two (2)] 3 units for collective bargaining and for purposes of certification and decertification. Persons in these units are all County government merit system employees working on a continuous full-time, career or part-time, career basis, excluding the categories listed as exceptions to the definition of Employee in Section 33-102(4) of this article. The employees are divided into [two (2)] 3 units, in accordance with the following descriptions:

(1) \* \* \*

(2) \* \* \*

(3) Fire/Rescue Unit. This unit is composed of employees who hold the positions of Master Firefighter/Rescuer, and Firefighter/Rescuer I, II, and III, [[and Fire/Rescue Communications Technician,]] and who are associated with fire suppression, fire protection, fire communications, fire service training, rescue and emergency medical services. These duties include the rescue and safety of individuals and the preservation of structures and physical property.

(b) Specific job classes included in these units of representation, and not otherwise excluded under Section 33-102(4), shall be based on the designations made by the Chief Administrative Officer under the prior meet and confer process if the job class is not specified in this article.\* \* \*

Sec. 2. Section 33-106 is amended as follows:

33-106. Selection, certification, and decertification procedures.

(a) The certification or decertification of an employee organization as the representative of a unit for the purpose of collective bargaining shall be initiated in accordance with the following procedures:

(1) \* \* \*

(2) \* \* \*

(3) Petitions may be filed within [thirty (30) days following the date on which this article becomes effective] 90 days after any new bargaining unit is established. Thereafter, if a lawful collective bargaining agreement is not in effect, petitions may be filed between September 1 and September 30 of any year, but not sooner than [twenty-two (22)] 22 months after an election held under this section.

(4) \* \* \*

(b) \* \* \*

(c) \* \* \*

(d) \* \* \*

(e) \* \* \*

Sec. 3. Effective Date.

The Council declares that an emergency exists and that this legislation is necessary for the immediate protection of the public health and safety. This Act takes effect on the date on which it becomes law.

01 Approved:

02 Rose Crenca  
03  
04 Rose Crenca, President, County Council

November 20, 1987  
Date

05  
06 Approved:

07 Sidney Kramer  
08  
09 Sidney Kramer, County Executive

November 20, 1987  
Date

10  
11  
12 This is a correct copy of Council action.

13 Kathleen A. Freedman  
14  
15 Kathleen A. Freedman, CMC  
16 Secretary of the Council

Nov. 23, 1987  
Date

Emergency Bill No. 3-93  
Concerning: Collective Bargaining  
- Process and Deadlines  
Draft No. & Date: 2 1-22-93  
Introduced: January 26, 1993  
Enacted: March 2, 1993  
Executive: March 11, 1993  
Effective: March 11, 1993  
Sunset Date: None  
Ch. 12, Laws of Mont. Co. 1993

COUNTY COUNCIL  
FOR MONTGOMERY COUNTY, MARYLAND

---

By: Council President

---

AN EMERGENCY ACT to:

- (1) revise certain deadlines in the County collective bargaining process;
- (2) make technical, stylistic, and conforming changes in certain provisions of the County collective bargaining laws, and remove obsolete provisions from those laws; and
- (3) generally amend the laws governing collective bargaining with certain County employees.

By amending

Montgomery County Code  
Chapter 33, Personnel  
Sections 33-80 and 33-108

EXPLANATION: **Boldface** indicates a heading or a defined term  
Underlining indicates text that is added to existing law by the original bill  
[Single boldface brackets] indicate text that is deleted from existing law by the original bill  
Double underlining indicates text that is added to the bill by amendment  
[[Double boldface brackets]] indicate text that is deleted from existing law or the bill by amendment  
\* \* \* indicates existing law unaffected by the bill

The County Council for Montgomery County, Maryland, approves the following act:

1           Sec. 1. Sections 33-80 and 33-108 are amended as follows:

2                   ARTICLE V. POLICE LABOR RELATIONS.

3                           \*       \*       \*

4           33-80. Collective bargaining.

5                           \*       \*       \*

6           (d) Time limits. Collective bargaining shall commence no later  
7                   than November 1 preceding [the beginning of] a fiscal year  
8                   for which there is no contract between the employer and the  
9                   certified representative and shall be concluded [on] by  
10                  January 20. The resolution of an impasse in collective  
11                  bargaining shall be completed by February 1. These time  
12                  limits may be waived only by prior written consent of the  
13                  parties.

14                          \*       \*       \*

15           (g) [~~Miscellaneous~~] Council review. A ratified agreement shall  
16                   be binding on the employer and the certified  
17                   representative, and shall be reduced to writing and  
18                   executed by both parties. Any term or condition thereof  
19                   which requires an appropriation of funds or enactment,  
20                   repeal or modification of a County law shall be timely  
21                   submitted to the County Council by the employer[;], and the  
22                   employer shall make a good faith effort to have such term  
23                   or condition implemented by Council action. On or before  
24                   [April 25] May 1, the County Council shall indicate by [a  
25                   majority vote] resolution its intention to appropriate  
26                   funds for or otherwise implement the agreement[, ] or its  
27                   intention not to do so, and shall state its reasons for any

28 intent to reject any part [or parts] of the agreement. [In  
29 the event] If the Council indicates its intention to reject  
30 any part, it shall designate a representative to meet with  
31 the parties and present the Council's views in their  
32 further negotiations. This representative shall also  
33 participate fully in stating the Council's position in any  
34 ensuing impasse procedure. The parties shall thereafter  
35 meet as promptly as possible [in an] and attempt to  
36 negotiate an agreement acceptable to the Council. Either  
37 of the parties may initiate the impasse procedure set forth  
38 in Section 33-81. The results of the negotiation or  
39 impasse procedure shall be submitted to the Council on or  
40 before May 10. Any agreement shall provide either for  
41 automatic reduction or elimination of [such] conditional  
42 wage and/or benefits adjustments if the Council fails to  
43 take action necessary to implement the agreement, or if  
44 sufficient funds are not appropriated for any fiscal year  
45 in which the agreement is in effect[, or if a lesser amount  
46 is appropriated].

47 ARTICLE VII. COUNTY COLLECTIVE BARGAINING.

48 33-108. Bargaining, impasse, fact finding, and legislative  
49 procedures.

50 (a) Collective bargaining shall begin no later than November 1  
51 before the beginning of a fiscal year for which there is no  
52 agreement between the employer and the certified  
53 representative [(except that in 1986, collective bargaining  
54 may begin as late as December 1)] and shall be finished on



or before January 15. The resolution of a bargaining impasse or fact-finding shall be finished by February 1.

\* \* \*

- (i) On or before [April 15] May 1, the Council shall indicate by [a majority vote] resolution its intention to appropriate funds for or otherwise implement the items that have been agreed to[, ] or its intention not to do so, and shall state its reasons for any intent to reject any [part of the] items[, ] of the kind specified in subsection (g)[, ] that have been agreed to. The Council shall also indicate by [a majority vote] resolution its position on disputed matters which could require an appropriation of funds or enactment, repeal, or modification of any county law or regulation, or which have present or future fiscal impact.
- (j) Then the Council shall designate a representative to meet with the parties and present the Council's views in the parties' further negotiation on disputed matters and/or agreed upon matters that the Council has indicated its intention to reject. The results of the negotiation, whether a complete or a partial agreement, shall be submitted to the Council on or before May [1] 10. [The Council may extend this deadline for no more than one (1) week.] Any agreement shall provide for automatic reduction or elimination of wage and/or benefits adjustments if:
- (1) The Council does not take action necessary to implement the agreement[, ] or a part of it; or
  - (2) [Funds] Sufficient funds are not appropriated for any

fiscal year in which the agreement is in effect.[]; or]

[(3) Lesser amounts than those stated in the agreement are  
appropriated.]

Sec. 2. Emergency Effective Date.

The Council declares that an emergency exists and that this  
legislation is necessary for the immediate protection of the public  
health and safety. This act takes effect on the date on which it  
becomes law.

Approved:

Marilyn J. Praisner

Mar. 2, 1993

Marilyn J. Praisner, President, County Council

Date

Approved:

Neal Potter

3/11/93

Neal Potter, County Executive

Date

This is a correct copy of Council action.

Kathleen A. Freedman

3/12/93

Kathleen A. Freedman, CMC

Date

Secretary of the Council

This page is  
intentionally blank.

Emergency Bill No: 19-94  
Concerning: Name Change for  
Personnel Office  
Draft No. & Date: 2 - 7/5/94  
Introduced: June 21, 1994  
Enacted: July 5, 1994  
Executive: July 13, 1994  
Effective: July 13, 1994  
Sunset Date: None  
Ch. 16, Laws of Mont. Co. 1994

COUNTY COUNCIL  
FOR MONTGOMERY COUNTY, MARYLAND

---

By: Council President at the request of the County Executive, and  
Councilmember Praisner

---

AN EMERGENCY ACT to change the name of the Personnel Office to Office of Human Resources.

By amending

Montgomery County Code  
Chapter 1A, Establishing the structure of County Government  
Section 1A-201, Establishing departments and principal offices

Chapter 2, Administration  
Section 2-64I, Functions

Chapter 33, Personnel  
Sections 33-59 and 33-102

EXPLANATION: **Boldface** indicates a heading or a defined term  
Underlining indicates text that is added to existing law  
by the original bill  
[Single boldface brackets] indicate text that is deleted  
from existing law by the original bill  
Double underlining indicates text that is added to the  
bill by amendment  
[[Double boldface brackets]] indicate text that is  
deleted from existing law or the bill by amendment  
\* \* \* indicates existing law unaffected by the bill

The County Council for Montgomery County, Maryland, approves the following act:

1       Sec. 1. Sections 1A-201, 2-64I, 33-59, and 33-102 are amended  
2 as follows:

3       1A-201. Establishing departments and principal offices.

4       (a) Executive Branch.

5               (1) These are the departments and principal offices of the  
6               Executive Branch.

7                               \*       \*       \*

8               Housing and Community Development (section 2-27 et  
9               seq.)

10              Human Resources (section 2-64I; ch. 33)

11                               \*       \*       \*

12              [Personnel (section 2-64I; ch. 33)]

13                               \*       \*       \*

14              DIVISION 15. OFFICE OF [PERSONNEL] HUMAN RESOURCES

15       2-64I. Functions.

16              The [personnel office shall have] Office of Human Resources has  
17       the following functions:

18                               \*       \*       \*

19              Chapter 33.

20              [PERSONNEL] PERSONNEL AND HUMAN RESOURCES

21       33-59. Board of investment trustees.

22                               \*       \*       \*

23              (b) The board consists of [nine (9)] 9 trustees. The county  
24       executive must appoint:

25              (1) The director of [personnel] human resources or acting  
26       director;

27                               \*       \*       \*

33-102. Definitions.

The following terms have the meaning indicated when used in this article:

\* \* \*

(4) **Employee** means any person who works under the county government merit system on a continuous full-time, career or part-time, career basis, except for the following:

\* \* \*

k. Persons who work for the [personnel office] office of human resources.

**Sec. 2. Emergency Effective Date.**

The Council declares that an emergency exists and that this legislation is necessary for the immediate protection of the public health and safety. This act takes effect on the date on which it becomes law.

Approved:

William E. Hanna, Jr.  
William E. Hanna, Jr., President, County Council

7/7/94  
Date

Approved:

Neal Potter  
Neal Potter, County Executive

7/13/94  
Date

This is a correct copy of Council action.

Kathleen A. Freedman  
Kathleen A. Freedman, CMC  
Secretary of the Council

7/13/94  
Date

This page is  
intentionally blank.

Emergency Bill No. 21-96  
Concerning: Collective Bargaining -  
Firefighters  
Revised: 7-18-96 Draft No. 5  
Introduced: May 14, 1996  
Enacted: July 23, 1996  
Executive: August 1, 1996  
Effective: August 1, 1996  
Sunset Date: None  
Ch. 21, Laws of Mont. Co. 1996

## COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND

---

By: Council President at the request of the County Executive

---

**AN EMERGENCY ACT** to establish a separate collective bargaining process for professional fire and rescue employees.

By amending

Montgomery County Code  
Chapter 33, Personnel  
Sections 33-102 and 33-105

By adding

Chapter 33, Personnel  
Article X, Fire and Rescue Collective Bargaining  
Sections 33-147 through 33-157

<b>Boldface</b>	<i>Heading or defined term.</i>
<u>Underlining</u>	<i>Added to existing law by original bill.</i>
[Single boldface brackets]	<i>Deleted from existing law by original bill.</i>
<u>Double underlining</u>	<i>Added by amendment.</i>
[[Double boldface brackets]]	<i>Deleted from existing law or the bill by amendment.</i>
* * *	<i>Existing law unaffected by bill.</i>

*The County Council for Montgomery County, Maryland, approves the following Act:*



**Sec. 1. Sections ~~33-102~~ and 33-105 are amended, and Article X, Fire and Rescue Collective Bargaining, Sections 33-147 through 33-157, are added as follows:**

**33-102. Definitions.**

The following terms have the meaning indicated when used in this Article:

\* \* \*

- (4) **Employee** means any person who works under the County government merit system on a continuous full-time, career or part-time, career basis, except [for the following]:
  - [a.] (A) Confidential aides to elected officials.
  - [b.] (B) All persons who are not covered by the County government merit system.
  - [c.] (C) Heads of principal departments, offices, and agencies.
  - [d.] (D) Deputies and assistants to heads of principal departments, offices, and agencies.
  - [e.] (E) Persons who provide direct staff or administrative support to the head of a principal department, office, or agency, or to a deputy or assistant within the immediate office of a head of a principal department, office, or agency.
  - [f.] (F) Persons who report directly to or whose immediate supervisor is the County Executive or the Chief Administrative Officer or their principal aides.
  - [g.] (G) Persons who work for the Office of the County Executive and the Office of the Chief Administrative Officer.
  - [h.] (H) Persons who work for the County Council.

- 26 [i.] (I) Persons who work for the Office of the County Attorney.
- 27 [j.] (J) Persons who work for the Office of Management and Budget.
- 28 [k.] (K) Persons who work for the [personnel office] Office of Human
- 29 Resources.
- 30 [l.] (L) Persons who work for the Merit System Protection Board.
- 31 [m.] (M) Persons who work on a temporary, seasonal, or substitute basis.
- 32 [n.] (N) Newly hired persons on probationary status.
- 33 [o.] (O) Persons who work for the Police Department [who] and are
- 34 represented by a certified employee organization under Article
- 35 V [of this Chapter].
- 36 (P) Persons who work for the Department of Fire and Rescue
- 37 Services and are represented by a certified employee
- 38 organization under Article X.
- 39 [p.] (Q) Officers in the uniformed services (Corrections, Fire and
- 40 Rescue, Police, Office of the Sheriff) in the rank of sergeant
- 41 and above. Subject to any limitations in state law, deputy
- 42 sheriffs below the rank of sergeant are employees.
- 43 [q.] (R) Persons who are members of the state merit system.
- 44 [r.] (S) Supervisors, which means persons having authority to [do any
- 45 of the following]:
- 46 [1.](i) hire, assign, transfer, lay off, recall, promote, evaluate,
- 47 reward, discipline, suspend, or discharge employees, or
- 48 effectively [to] recommend any [one] of these actions;
- 49 [2.](ii) direct the activity of [three (3)] 3 or more employees; or
- 50 [3.](iii) adjust or recommend adjustment of grievances.

[s.] (T) Persons in grade 27 or above, whether or not they are supervisors.

**33-105. Units for collective bargaining.**

(a) There are [3] 2 units for collective bargaining and for purposes of certification and decertification. Persons in these units are all County government merit system employees working on a continuous full-time, career or part-time, career basis, [excluding the categories listed as exceptions to the definition of] except any person who is not defined as an employee in Section 33-102(4) [of this Article]. The employees are divided into [3] 2 units[, in accordance with the following descriptions]:

\* \* \*

[(3) **Fire/Rescue unit.** This unit is composed of employees who hold the positions of master firefighter/rescuer, and firefighter/rescuer I, II, and III, and who are associated with fire suppression, fire protection, fire communications, fire service training, rescue, and emergency medical services. These duties include the rescue and safety of individuals and the preservation of structures and physical property.]

\* \* \*

**ARTICLE X. FIRE AND RESCUE COLLECTIVE BARGAINING.**

**33-147. Declaration of policy.**

The public policy of Montgomery County is to promote a harmonious, peaceful, and cooperative relationship between the County government and its fire and rescue employees and to protect the public by assuring, at all times, the responsive, orderly, and efficient operation of the Department of Fire and Rescue

Services. Since unresolved disputes in the fire and rescue service harm the public and fire and rescue employees, adequate means should be available to prevent disputes and resolve them when they occur. To that end, it is in the public interest that fire and rescue employees have the opportunity to bargain collectively over wages, hours, and other terms and conditions of employment, as authorized by Charter Section 510A, through a representative of their choice, or to refrain from collective bargaining. It is also in the public interest that the County government and a representative of fire and rescue employees bargain collectively in good faith without interference with the orderly process of government, and that they implement any agreement reached through collective bargaining.

Fire and rescue employee organizations and the County government each possess substantial means for initiating actions on wages, hours, and working conditions of employees. Therefore, in order to preserve an appropriate balance between labor and management in the fire and rescue service, once the employees voluntarily select a representative collective bargaining must be used in place of, and not in addition to, existing means to initiate government action on subjects that are appropriate for collective bargaining under this Article.

#### **33-148. Definitions.**

The following terms have the meaning indicated when used in this Article:

- (1) **Agency shop** means a provision in a collective bargaining agreement requiring, as a condition of continued employment, that bargaining unit employees pay a service fee not greater than the monthly membership dues uniformly and regularly required by the employee organization of all of its members. An agency shop agreement must not require an employee to pay initiation fees, assessments, fines, or any similar collections as a condition of continued employment. A

collective bargaining agreement must not require payment of a service fee by any employee who opposes joining or financially supporting an employee organization on religious grounds. However, the collective bargaining agreement may require that employee to pay an amount equal to the service fee to a nonreligious, nonunion charity, or to any other charitable organization, agreed to by the employee and the certified representative, with provision for dispute resolution if there is not agreement, and to give to the employer and the certified representative written proof of this payment. The certified representative must adhere at all times to all federal constitutional requirements in its administration of any agency shop system maintained by it.

(2) **Certified representative means an employee organization chosen to represent the unit as the exclusive bargaining agent in accordance with this Article or Article VII.**

(3) **Collective bargaining means meeting at reasonable times and places and negotiating in good faith on appropriate subjects as defined under this Article. This Article does not compel either party to agree to a proposal or make a concession.**

(4) **Employee means any fire and rescue employee in the classification of Master Firefighter/Rescuer, Firefighter/Rescuer III, Firefighter/Rescuer II, and Firefighter/Rescuer I, but not any employee:**

(A) in a probationary status, or

(B) in the classification of Fire/Rescue [[Sergeant]] Lieutenant or any equivalent or higher classification.

- 129       (5)    **Employee organization** means any organization that admits  
 130           employees to membership and that has as a primary purpose the  
 131           representation of employees in collective bargaining. [[The  
 132           organization must not admit to membership any person other than fire  
 133           and rescue service personnel.]]
- 134       (6)    **Employer** means the County Executive and the Executive's designee.
- 135       (7)    **Lockout** means any action that the employer takes to interrupt or  
 136           prevent the continuity of work properly and usually performed by the  
 137           employees for the purpose and with the intent of either coercing the  
 138           employees into relinquishing rights guaranteed by this Article or of  
 139           bringing economic pressure on employees for the purpose of securing  
 140           the agreement of their certified representative to certain collective  
 141           bargaining terms.
- 142       (8)    **Mediation** means an effort by an impasse neutral chosen under this  
 143           Article to assist confidentially in resolving, through interpretation,  
 144           suggestion, and advice, a dispute arising out of collective bargaining  
 145           between the employer and the certified representative.
- 146       (9)    **Strike** means a concerted failure to report for duty, absence, stoppage  
 147           of work, or abstinence in whole or in part from the full and faithful  
 148           performance of the duties of employment with the employer, or  
 149           deviation from normal or proper work duties or activities, where any  
 150           of these acts are done in a concerted manner for the purpose of  
 151           inducing, influencing, or coercing the employer in the determination,  
 152           implementation, interpretation, or administration of terms or  
 153           conditions of employment or of the rights, privileges, or obligations

154 of employment or of the status, recognition, or authority of the  
 155 employee or an employee organization.

- 156 (10) Unit means all employees, as defined in this Section, who are  
 157 associated with fire suppression, fire protection, fire communications,  
 158 fire service training, rescue, and emergency medical services, and  
 159 whose duties include the rescue and safety of individuals and the  
 160 preservation of structures and physical property.

161 **33-149. Labor Relations Administrator.**

- 162 (a) A Labor Relations Administrator must be appointed to effectively  
 163 administer this Article as it governs selection, certification and  
 164 decertification procedures[[,]] and prohibited practices[[, and the  
 165 choice of an impasse neutral]]. The Administrator must:

- 166 (1) periodically adopt, amend, and repeal, under method (1),  
 167 regulations and procedures to carry out the Administrator's  
 168 duties under this Article;
- 169 (2) request from the employer or employee organization, and the  
 170 employer or employee organization may at its discretion  
 171 provide, any relevant assistance, service, and data that will  
 172 enable the Administrator to properly carry out duties under this  
 173 Article;
- 174 (3) hold hearings and make inquiries, administer oaths and  
 175 affirmations, examine witnesses and documents, take testimony  
 176 and receive evidence, and compel by issuance of subpoenas the  
 177 attendance of witnesses and the production of relevant  
 178 documents;

- 179           (4) conduct elections to certify or decertify an **employee**  
 180               **organization** under this Article, and issue the certification or  
 181               decertification;
- 182           (5) investigate and attempt to resolve or settle, as provided in this  
 183               Article, charges of engaging in prohibited practices, but the  
 184               Administrator must defer to the parties' grievance procedure if:  
 185               (A) the **employer** and the **certified representative** have  
 186                   negotiated a valid grievance procedure to resolve  
 187                   disputes, and  
 188               (B) deferral to the grievance procedure would not result in  
 189                   the application of principles repugnant to this Article;
- 190           (6) determine whether a person is properly included in or excluded  
 191               from the unit;
- 192           (7) obtain any necessary support services and make necessary  
 193               expenditures in the performance of duties to the extent the  
 194               County has appropriated funds for these purposes; and
- 195           (8) exercise any other powers and perform any other duties and  
 196               functions specified in this Article.
- 197       (b) The Labor Relations Administrator must be a person with experience  
 198           as a neutral in labor relations, and must not be a person who, because  
 199           of vocation, employment, or affiliation, can be classed as a  
 200           representative of the interest of the **employer** or any **employee**  
 201           **organization.**
- 202       (c) The County Executive must appoint the Labor Relations  
 203           Administrator from a list of 5 nominees agreed on by the **certified**  
 204           **representative** and the Chief Administrative Officer. The County



Council must confirm the appointment. If there is no **certified**  
**representative**, the County Executive must appoint an Administrator,  
with the confirmation of the County Council. If the County Council  
does not confirm an appointment, the County Executive must appoint  
another person from a new agreed list of 5 nominees and submit that  
appointee to the County Council for confirmation. The Administrator  
serves a term of 5 years. An incumbent Administrator is  
automatically reappointed for another 5-year term unless, during the  
period between 60 and 30 days before the term expires, the **certified**  
**representative** notifies the **employer** or the **employer** notifies the  
**certified representative** that it objects to the reappointment.

- (d) The Labor Relations Administrator must be paid a daily fee as  
specified by contract with the County, and must be reimbursed for  
necessary expenses incurred in performing the duties of  
Administrator.

### **33-150. Employee rights.**

- (a) **Employees have the right to:**
- (1) form, join, support, contribute to, or participate in, or refrain  
from forming, joining, supporting, contributing to, or  
participating in, any **employee organization** or its lawful  
activities; and
  - (2) be represented fairly by their **certified representative**, if any.
- (b) The **employer** must extend to the **certified representative** the  
exclusive right to represent the **employees** for the purposes of  
**collective bargaining**, including the orderly processing and  
settlement of grievances as agreed by the parties under this Article.

(c) A **certified representative** serves as the exclusive bargaining agent for all **employees** in the **unit** and must represent fairly and without discrimination all **employees** in the **unit** without regard to whether the **employees** are members of the **employee organization**, pay dues or other contributions to it, or participate in its affairs. However, it is not a violation of this duty for a **certified representative** to seek enforcement of an **agency shop** provision in a valid **collective bargaining** agreement.

(d) The right of a **certified representative** to receive voluntary dues or service fee deductions or **agency shop** provisions must be determined through negotiations, unless the authority to negotiate these provisions has been suspended under this Article. Other than an **agency shop** provision, a **collective bargaining** agreement must not require membership in, participation in the affairs of, or contributions to an **employee organization**.

### 33-151. Selection, certification, and decertification procedures.

(a) Any **employee organization** seeking certification as representative of the **unit** must file a petition with the Labor Relations Administrator stating its name, address, and its desire to be certified. The **employee organization** must also send a copy of the petition, including a copy of the signatures of the supporting **employees** on the petition, to the **employer**. The petition must contain the uncoerced signatures of 30 percent of the **employees** in the **unit**, signifying their desire to be represented by the **employee organization** for purposes of **collective bargaining**.

- (b) If an **employee organization** has been certified, an **employee** in the unit may file a petition with the Administrator to decertify the certified representative. The **employee** must also send a copy of the petition to the **employer** and the **certified representative**, not including the names of the supporting **employees**. The petition must contain the uncoerced signatures of 30 percent of the **employees** in the unit, alleging that the certified **employee organization** is no longer the choice of the majority of the **employees** in the unit.
- (c) If a lawful **collective bargaining** agreement is not in effect, a petition may be filed under this Section in September of any year, but not sooner than 22 months after an election held under this Section.
- (d) If a lawful **collective bargaining** agreement is in effect, a petition filed under this Section must not be entertained unless it is filed during September of the final year of the agreement.
- (e) If the Administrator finds that a petition is properly supported and timely filed, the Administrator must hold an election of all eligible **employees** within a reasonable time, but no later than the next October 20, to determine if and by whom the **employees** wish to be represented.
- (1) The election must be supervised by the Administrator and must be conducted by secret ballot at the time and place that the Administrator directs. The Administrator may retain the services of a State agency responsible for conducting labor elections, or a similarly neutral body, to assist in conducting the election.

- 281           (2)   The election ballots must contain, as choices to be made by the  
282                   voter, the name of each petitioning or certified employee  
283                   organization, the name of any other employee organization  
284                   showing written proof at least 10 days before the election of at  
285                   least 10 percent representation of the employees in the unit in  
286                   the same manner as described in paragraph (a), and a choice  
287                   that the employee does not desire to be represented by any of  
288                   the named employee organizations.
- 289           (3)   The employer and each party to the election may be  
290                   represented by observers selected under conditions that the  
291                   Administrator prescribes.
- 292           (4)   Observers selected under paragraph (3) may challenge for good  
293                   cause the eligibility of any person to vote in the election. All  
294                   challenged ballots must be impounded until either the parties  
295                   agree on the validity of each challenge or the Administrator  
296                   decides the validity of each challenge. However, if the number  
297                   of challenges will not determine the outcome of the election,  
298                   the challenged ballots must be destroyed.
- 299           (5)   After the polls have been closed, the Administrator must count  
300                   all valid ballots cast in the presence of the observers.
- 301           (6)   The Administrator must immediately prepare and serve on the  
302                   employer and each party a report certifying the results of the  
303                   election. If an employee organization receives the votes of a  
304                   majority of the employees who voted, the Administrator must  
305                   certify that organization as the exclusive agent.

(7) If no employee organization receives the votes of a majority of the employees who voted, the Administrator must not certify a representative. Unless a majority of the employees who vote choose "no representative," a runoff election must be conducted. The runoff election must contain the 2 choices that received the largest and second largest number of votes in the original election.

(f) The Administrator's certification of results is final unless, within 7 days after service of the report and the certification, any party serves on all other parties and files with the Administrator objections to the election. All objections must be verified and contain a concise statement of facts constituting the grounds for each objection. The Administrator must investigate all objections and, if substantial factual issues exist, must hold a hearing. Otherwise, the Administrator may decide the matter without a hearing. The Administrator may invite, either by rule or by invitation, written or oral argument to assist in deciding the merits of the objections. If the Administrator finds that the election was conducted in substantial conformity with this Article, the Administrator must confirm the certification initially issued. If the Administrator finds that the election was not held in substantial conformity with this Article, then the Administrator must hold another election under this Section.

(g) The County must pay the cost of conducting each election.

### 33-152. Collective bargaining.

- 330 (a) Duty to bargain; matters subject to bargaining. When an  
 331 employee organization is certified, the employer and the certified  
 332 representative must bargain collectively with respect to:
- 333 (1) salary and wages, including the percentage of the increase in  
 334 the salary and wages budget that is devoted to merit increments  
 335 and cash awards, but salaries and wages must be uniform for all  
 336 employees in the same classification;
  - 337 (2) pension and other retirement benefits for active employees  
 338 only;
  - 339 (3) employee benefits such as, but not limited to, insurance, leave,  
 340 holidays, and vacations;
  - 341 (4) hours and working conditions;
  - 342 (5) procedures for the orderly processing and settlement of  
 343 grievances concerning the interpretation and implementation of  
 344 any collective bargaining agreement, which may include:
    - 345 (A) binding third party arbitration, but the arbitrator has no  
 346 authority to amend, add to, or subtract from any  
 347 provision of the collective bargaining agreement; and
    - 348 (B) provisions for exclusivity of forum;
  - 349 (6) matters affecting the health and safety of employees; and
  - 350 (7) amelioration of the effect on employees when the exercise of  
 351 employer rights listed in subsection (b) causes a loss of  
 352 existing jobs in the unit.
- 353 (b) Employer rights. This article and any collective bargaining  
 354 agreement made under it must not impair the right and responsibility  
 355 of the employer to:

- 356 (1) determine the overall budget and mission of the **employer** and  
357 any agency of County government;
- 358 (2) maintain and improve the efficiency and effectiveness of  
359 operations;
- 360 (3) determine the services to be rendered and the operations to be  
361 performed;
- 362 (4) determine the overall organizational structure, methods,  
363 processes, means, job classifications, and personnel by which  
364 operations are conducted, and the location of facilities;
- 365 (5) direct and supervise **employees**;
- 366 (6) hire, select, and establish the standards governing promotion of  
367 **employees**, and classify positions;
- 368 (7) relieve **employees** from duties because of lack of work or  
369 funds, or when the **employer** determines continued work  
370 would be inefficient or nonproductive;
- 371 (8) take actions to carry out the mission of government in  
372 emergency situations;
- 373 (9) transfer, assign, and schedule **employees**;
- 374 (10) determine the size, grades, and composition of the work force;
- 375 (11) set standards of productivity and technology;
- 376 (12) establish **employee** performance standards and evaluate  
377 **employees**, but evaluation procedures are subject to  
378 bargaining;
- 379 (13) make and implement systems for awarding outstanding service  
380 increments, extraordinary performance awards, and other merit  
381 awards;

(14) introduce new or improved technology, research, development, and services;

(15) control and regulate the use of machinery, equipment, and other property and facilities of the **employer**, subject to subsection (a)(6);

(16) maintain internal security standards;

(17) create, alter, combine, contract out, or abolish any job classification, department, operation, **unit**, or other division or service, but the **employer** must not contract work which will displace **employees** unless it gives written notice to the **certified representative** 90 days before signing the contract or other notice agreed by the parties;

(18) suspend, discharge, or otherwise discipline **employees** for cause, except that, subject to Charter Section 404, any such action may be subject to a grievance procedure included in a **collective bargaining** agreement; and

(19) issue and enforce rules, policies, and regulations necessary to carry out these and all other managerial functions which are not inconsistent with this Article, federal or state law, or the terms of a **collective bargaining** agreement.

(c) **Exemption.** This Article does not limit the discretion of the **employer** voluntarily to discuss with the representatives of its **employees** any matter concerning the **employer's** exercise of any right specified in this Section. However, any matter so discussed is not subject to bargaining.



- (d) The public **employer** rights specified in this Section must be incorporated by reference in every agreement reached between the employer and the employee organization.

**33-153. Bargaining, impasse, and legislative procedures.**

- (a) Collective bargaining must begin no later than the November 1 before the beginning of a fiscal year for which there is no agreement between the **employer** and the **certified representative**, and must be completed on or before January 15. The resolution of a bargaining impasse must be completed by February 1. These time limits may be waived or extended by written agreement of the parties.
- (b) Any provision for automatic renewal or extension of a **collective bargaining** agreement is void. An agreement is void if it extends for less than 1 year or more than 3 years. Each **collective bargaining** agreement must take effect July 1 and end June 30.
- (c) A **collective bargaining** agreement takes effect only after ratification by the **employer** and the **certified representative**. The **certified representative** may adopt its own ratification procedures.
- (d) Before November 10 of any year in which the **employer** and the **certified representative** bargain collectively, they must choose an impasse neutral, either by agreement or through the processes of the American Arbitration Association. The impasse neutral must be available from January 15 to February 1. The impasse neutral's fees and expenses must be shared equally by the **employer** and the **certified representative**.
- (e) During the course of **collective bargaining**, either party may declare an impasse and request the services of the impasse neutral, or the

parties may jointly request those services before declaring an impasse. If the parties have not agreed on a **collective bargaining** agreement by January 15, an impasse exists by operation of law.

(f) When an impasse is reached, the parties must submit the dispute to the impasse neutral. The impasse neutral must attempt **mediation** by bringing the parties together voluntarily under conditions that will tend to bring about a settlement of the dispute.

(g) If the impasse neutral, in the impasse neutral's sole discretion, finds that the parties are at a bona fide impasse, the impasse neutral must require the parties to jointly submit all items previously agreed on, and each party to submit a final offer consisting of proposals not agreed upon. Neither party may change any proposal after it is submitted to the impasse neutral as a final offer, except to withdraw a proposal on which the parties have agreed.

(h) The impasse neutral may require the parties to submit evidence or present oral or written arguments in support of their proposals. The impasse neutral may hold a hearing at a time, date, and place selected by the impasse neutral. The hearing must not be open to the public.

(i) On or before February 1, unless that date is extended by written agreement of the parties, the impasse neutral must select the final offer that, as a whole, the impasse neutral judges to be the more reasonable. In determining which final offer is the more reasonable, the impasse neutral may consider only the following factors:

(1) past **collective bargaining** agreements between the parties, including the past bargaining history that led to the agreements,

or the pre-collective bargaining history of employee wages,  
hours, benefits, and working conditions;

(2) wages, hours, benefits and conditions of employment of similar  
employees of other public employers in the Washington  
Metropolitan Area and in Maryland;

(3) wages, hours, benefits, and conditions of employment of other  
Montgomery County employees;

(4) wages, benefits, hours, and other working conditions of similar  
employees of private employers in Montgomery County;

(5) the interest and welfare of the public; and

(6) the ability of the employer to finance economic adjustments,  
and the effect of those adjustments on the normal standard of  
public services provided by the employer.

(j) The impasse neutral must base the selection of the most reasonable  
offer on the contents of the offer and the integration of any previously  
agreed-on items with the disputed items. In making a decision, the  
impasse neutral must not consider or receive any evidence or  
argument concerning offers of settlement not contained in the offers  
submitted to the impasse neutral, or any other information concerning  
the collective bargaining leading to impasse. The impasse neutral  
must neither compromise nor alter the final offer that he or she  
selects.

(k) The final offer selected by the impasse neutral, integrated with any  
items previously agreed on, is the final agreement between the  
parties, need not be ratified by any party, and has the force and effect

of an agreement voluntarily entered into and ratified under subsection (c). The parties must execute that agreement.

- (l) The annual operating budget which the **employer** submits to the County Council must include sufficient funds to pay for the items in the parties' final agreement. ~~[[Either or both parties]]~~ The **employer** must expressly identify to the Council all terms and conditions in the agreement that:

- (1) require an appropriation of funds, or
- (2) are inconsistent with any County law or regulation, or
- (3) require the enactment[, repeal, or modification]] or adoption of any County law or regulation, or
- (4) which have or may have a present or future fiscal impact.

The **employer** must make a good faith effort to have the Council take action to implement all terms and conditions in the parties' final agreement.

- (m) The Council may hold a public hearing to enable the parties and the public to testify on the agreement.

- (n) The Council may accept or reject all or part of any term or condition in the agreement which:

- (1) requires an appropriation of funds, or
- (2) is inconsistent with any County law or regulation, or
- (3) requires the enactment[, repeal, or modification]] or adoption of any County law or regulation, or
- (4) which has or may have a present or future fiscal impact.

On or before May 1, the Council must indicate by resolution its intention to appropriate funds for or otherwise implement the

agreement or its intention not to do so, and must state its reasons for any intention to reject any part of the parties' final agreement.

(o) If the Council indicates its intention to reject any part of the parties' final agreement, it must select a representative to meet with the parties and present the Council's views in the parties' further negotiation on matters that the Council has indicated its intention to reject. This representative must also participate fully in stating the Council's position in any ensuing impasse procedure. The parties must meet as promptly as possible and attempt to negotiate an agreement acceptable to the Council. Either party may at this time initiate impasse procedures under this Section. The parties must submit the results of the negotiation, whether a complete or a partial agreement, to the Council on or before May 10. The Council then must consider the agreement as renegotiated by the parties and indicate by resolution its intention to appropriate funds for or otherwise implement the agreement or its intention not to do so.

(p) Any agreement must provide for automatic reduction or elimination of wage or benefits adjustments if:

- (1) the Council does not take action necessary to implement the agreement or a part of it; or
- (2) sufficient funds are not appropriated for any fiscal year when the agreement is in effect.

### **33-154. Prohibited practices.**

(a) The employer and its agents or representatives must not:

- (1) interfere with, restrain, or coerce employees in the exercise of any rights granted to them under this Article;

- 535           (2) dominate or interfere with the formation or administration of  
 536           any **employee organization** or contribute financial or other  
 537           support to it, under an agreement or otherwise, but the  
 538           **employer and certified representative** may agree to and apply  
 539           an **agency shop** provision under this Article and a voluntary  
 540           dues or service fee deduction provision, and may agree to  
 541           reasonable use of County facilities to communicate with  
 542           **employees**;
- 543           (3) encourage or discourage membership in any **employee**  
 544           **organization** by discriminating in hiring, tenure, wages, hours,  
 545           or conditions of employment, but this Article does not preclude  
 546           an agreement from containing an **agency shop** provision;
- 547           (4) discharge or discriminate against a public **employee** because  
 548           the **employee** files charges, gives testimony, or otherwise  
 549           lawfully aids in administering this Article;
- 550           (5) refuse to bargain collectively with the **certified**  
 551           **representative**;
- 552           (6) refuse to reduce to writing or sign a **collective bargaining**  
 553           agreement that has been agreed to in all respects;
- 554           (7) refuse to process or arbitrate a grievance if required under a  
 555           grievance procedure contained in a **collective bargaining**  
 556           agreement;
- 557           (8) directly or indirectly oppose the appropriation of funds or the  
 558           enactment of legislation by the County Council to implement  
 559           an agreement reached under this Article; or

(9) engage in a **lockout** of **employees**.

(b) **Employee organizations** and their agents, representatives, and persons who work for them, must not:

(1) interfere with, restrain, or coerce the **employer** or any **employee** in the exercise of any rights granted under this Article;

(2) restrain, coerce, or interfere with the **employer** in the selection of its representative for **collective bargaining** or the adjustment of grievances;

(3) refuse to bargain collectively with the **employer** if the **employee organization** is the **certified representative**;

(4) refuse to reduce to writing or sign a **collective bargaining agreement** which has been agreed to in all respects;

(5) hinder or prevent, by threats of violence, intimidation, force, or coercion of any kind, the pursuit of any lawful work or employment by any person, public or private, or obstruct or otherwise unlawfully interfere with the entrance to or exit from any place of employment, or obstruct or unlawfully interfere with any person's free and uninterrupted use of any road, railway, airport, or other mode of travel;

(6) hinder or prevent by threats, intimidation, force, coercion, or sabotage, the obtaining, use, or disposition of materials, supplies, equipment, or services by the **employer**;

(7) take or retain unauthorized possession of property of the **employer**, or refuse to do work or use certain goods or materials as lawfully required by the **employer**; or

(8) cause or attempt to cause the **employer** to pay or deliver or agree to pay or deliver any money or other thing of value, in the nature of an exaction, for services which are neither performed nor to be performed.

(c) A charge of prohibited practice may be filed by the **employer**, an **employee organization**, or any individual **employee**. Each charge must be filed with the Labor Relations Administrator, and a copy must be sent to any person who allegedly committed a prohibited practice. Each charge must state facts sufficient to allow the Administrator to investigate the charge. The Administrator may request withdrawal of and, if necessary, summarily dismiss any charge which is insufficiently supported in fact or law to warrant a hearing.

(d) The Administrator may independently investigate any charge and may adopt rules for an independent investigation. If, after investigating, the Administrator finds that a charge is sufficiently supported to raise an issue of fact or law and is unable to settle or resolve the matter, the Administrator must hold a hearing on the charge after notifying the parties. In any hearing, the charging party must present evidence in support of the charges; and the party or parties charged may file an answer, appear in person or otherwise, and present evidence in defense against the charges.

(e) If the Administrator finds that the person charged has committed a prohibited practice, the Administrator must file findings of fact and conclusions of law, may order the person charged to cease and desist from the prohibited practice, and may take affirmative actions to



remedy any violation of this Article. Remedies available under this subsection include reinstating **employees** with or without back pay, making **employees** whole for any loss relating to County employment suffered as a result of any prohibited practice, or withdrawing or suspending an **employee organization's** authority to negotiate or continue an **agency shop** provision or a voluntary dues or service fee deduction provision. If the Administrator finds that the party charged has not committed a prohibited practice, the Administrator must file findings of fact and conclusions of law and dismiss the charges.

(f) The Administrator must summarily dismiss any charge based on an [[action which allegedly]] alleged prohibited practice which occurred more than 6 months before the charge was filed.

(g) Any party aggrieved by a final decision of the Administrator under this Section may appeal the decision to the Circuit Court for Montgomery County in accordance with the court rules governing administrative appeals. The court may affirm, reverse, or modify the decision, or remand the case for further proceedings. The filing of an appeal does not stay the Administrator's order. Any party to the proceeding in the Circuit Court may appeal the Court's decision under applicable provisions of state law and court rules.

### **33-155. Expression of views.**

(a) Expressing or disseminating any views, argument, or opinion, orally, in writing, or otherwise:

(1) is not a prohibited practice or evidence of a prohibited practice under this Article; and

(2) is not grounds to invalidate any election conducted under this Article;

unless the expression or dissemination contains a threat of reprisal or promise of benefit.

- (b) Recognizing an **employee organization** does not preclude the County from dealing with religious, social, fraternal, professional, or other lawful associations with respect to matters or policies that involve individual members of those associations or particularly apply to those associations or their members.

### 33-156. Strikes and lockouts.

- (a) An **employee or employee organization** must not either directly or indirectly cause, instigate, encourage, condone, or engage in any strike, nor the **employer** any lockout. An **employee or employee organization** must not obstruct, impede, or restrict, either directly or indirectly, any attempt to terminate a **strike**.
- (b) The **employer** must not pay, reimburse, make whole, or otherwise compensate any **employee** for or during the period when that **employee** is directly or indirectly engaged in a **strike**. The **employer** must not compensate an **employee** who struck for wages or benefits lost during a **strike**.
- (c) If an **employee or employee organization** violates this Section, and after adequate notice and a fair hearing the Labor Relations Administrator finds that the violations have occurred and that any or all of the following sanctions are necessary in the public interest, the **employer** may:

- 662 (1) discipline, or dismiss from employment, any **employee** who  
 663 engaged in the conduct;
- 664 (2) terminate or suspend an **employee organization's** dues  
 665 deduction privilege, if any; or
- 666 (3) revoke the certification of and disqualify the **employee**  
 667 **organization** from participation in representation elections for  
 668 a period up to a maximum of 2 years.
- 669 (d) This Article does not prohibit an **employer** or a certified **employee**  
 670 **organization** from seeking any remedy available in a court with  
 671 jurisdiction.

672 **33-157. Effect of prior laws and regulations.**

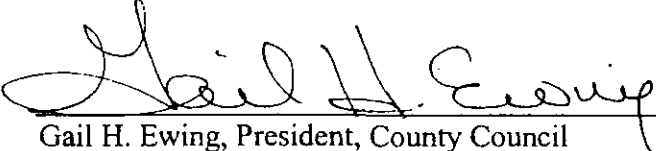
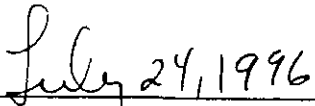
- 673 (a) This Article ~~[[does not supersede]]~~ **supersedes** any law, executive  
 674 order, rule, or regulation adopted by the County or any County  
 675 department or agency which is ~~[[not]]~~ inconsistent with this Article.
- 676 (b) Any executive order, rule, or regulation of the County or any County  
 677 department or agency which regulates any subject that is bargainable  
 678 under this Article is not superseded or modified by a **collective**  
 679 **bargaining** agreement negotiated under this Article, except to the  
 680 extent that the application of the order, rule, or regulation is  
 681 inconsistent with the **collective bargaining** agreement.
- 682 (c) However, if the inconsistent order, rule, or regulation is subject to and  
 683 has received County Council approval, a **collective bargaining**  
 684 agreement does not supersede or modify it unless:
- 685 (1) the order, rule, or regulation was expressly identified to the  
 686 Council by the parties before the Council reviewed the  
 687 **collective bargaining** agreement, as required by Section 33-

688 153(l)[];[], and the Council did not reject the inconsistent term  
 689 or condition of the collective bargaining agreement under  
 690 Section 33-153(n); or  
 691 (2) the Council []expressly indicates its intent to repeal or modify[]  
 692 repeals or modifies the order, rule, or regulation.

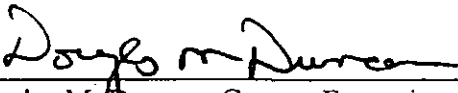
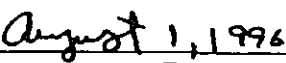
693 **Sec. 2. Emergency Effective Date.**

694 The Council declares that an emergency exists and that this legislation is  
 695 necessary for the immediate protection of the public health and safety. This act  
 696 takes effect on the date on which it becomes law.


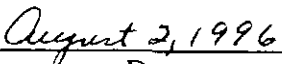
697 *Approved:*

698    
 Gail H. Ewing, President, County Council Date

699 *Approved:*

700    
 Douglas M. Duncan, County Executive Date

701 *This is a correct copy of Council action.*

702    
 Elda Dodson, Acting Secretary of the Council Date

This page is  
intentionally blank.

Bill No. 26-99  
Concerning: Collective Bargaining  
Amendments  
Revised: 3-3-00 Draft No. 5  
Introduced: September 14, 1999  
Enacted: March 7, 2000  
Executive: March 16, 2000  
Effective: June 15, 2000  
Sunset Date: None  
Ch. 2, Laws of Mont. Co. 2000

## COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND

By: Councilmembers Subin and Silverman

### AN ACT to:

- (1) modify certain functions of the Labor Relations Administrator;
- (2) revise the process for certifying employee organizations;
- (3) revise the timetable for certain collective bargaining actions;
- (4) require binding arbitration of certain collective bargaining agreements; and
- (5) generally amend the law governing collective bargaining for certain County employees.

### By amending

Montgomery County Code  
Chapter 33, Personnel and Human Resources  
Sections 33-103, 33-106, and 33-108

<b>Boldface</b>	<i>Heading or defined term.</i>
<u>Underlining</u>	<i>Added to existing law by original bill.</i>
[Single boldface brackets]	<i>Deleted from existing law by original bill.</i>
<u>Double underlining</u>	<i>Added by amendment.</i>
[[Double boldface brackets]]	<i>Deleted from existing law or the bill by amendment.</i>
* * *	<i>Existing law unaffected by bill.</i>

*The County Council for Montgomery County, Maryland approves the following Act:*

**Sec. 1. Sections 33-103, 33-106, and 33-108 are amended as follows:**

**33-103. Labor Relations Administrator.**

(a) [There is established the position of] A Labor Relations Administrator], to provide for the effective implementation and administration of] must be appointed to effectively administer this Article [concerning] as it governs selection, certification and decertification procedures, prohibited practices, and the choice of a mediator/fact-finder. The [Labor Relations] Administrator [shall exercise the following powers and perform the following duties and functions] must:

\* \* \*

(8) Determine any issue regarding the negotiability of any collective bargaining proposal.

~~[(8)]~~ (9) Exercise any other powers and perform any other duties and functions [as may be] specified in this Article.

**33-106 Selection, certification, and decertification procedures.**

(a) The certification or decertification of an employee organization as the representative of a unit for [the purpose of] collective bargaining [shall be initiated in accordance with] must comply with the following procedures:

\* \* \*

(5) If a different employee organization is certified as the result of an election carried out under subsection (b)(8), that organization must be treated in all respects as a successor in interest and party to any collective bargaining agreement that the previous employee organization was a party to.

(b) \* \* \*

(8) If a properly supported and timely filed petition to decertify an existing certified employee organization, and a properly supported and timely filed petition to certify another employee organization, are filed during the same time period under subsection (a)(3) or (a)(4), one election must be held to determine which organization, if any, the employees in the unit desire to represent them. The election ballot must contain, as choices to be made by the voter, the names of the petitioning and certified employee organizations, and a choice that the employee does not desire to be represented by any of the named employee organizations. All other applicable requirements and procedures for the election must be followed.

\* \* \*



- 41    **33-108.    Bargaining, impasse, ~~[[fact-finding,]]~~ and legislative procedures.**
- 42            (a)    Collective bargaining ~~[shall]~~ must begin no later than November 1
- 43                   before the beginning of a fiscal year for which there is no agreement
- 44                   between the employer and the certified representative, and ~~[shall]~~
- 45                   must be finished on or before ~~[January]~~ February ~~[[15]]~~ 1. [The
- 46                   resolution of a bargaining impasse or fact-finding shall be finished by
- 47                   February 1.]
- 48            (b)    Any provision for automatic renewal or extension of a collective
- 49                   bargaining agreement is void. An agreement is not valid if it extends
- 50                   for less than one year or for more than 3 years. All agreements
- 51                   ~~[become effective]~~ take effect July 1 and end June 30.
- 52            (c)    A collective bargaining agreement ~~[becomes effective]~~ takes effect
- 53                   only after ratification by the employer and ~~[by]~~ the certified
- 54                   representative. The certified representative may ~~[provide]~~ adopt its
- 55                   own ~~[rules for]~~ ratification procedures.
- 56            (d)    Before November 10 of any year in which the employer and the
- 57                   certified representative bargain collectively, the Labor Relations
- 58                   Administrator ~~[shall]~~ must appoint a mediator/~~[fact-finder]~~ arbitrator,
- 59                   who may be a person recommended ~~[to her]~~ by both parties. The
- 60                   mediator/~~[fact-finder]~~ arbitrator ~~[shall]~~ must be available ~~[during the~~

period] from January 2 to [February 1] June 30. Fees and expenses of the mediator/[fact-finder] arbitrator [shall] must be shared equally by the employer and the certified representative.

- (e) (1) During the course of collective bargaining, either party may declare an impasse and request the services of the mediator/[fact-finder] arbitrator, or the parties may jointly request [his] those services before [declaration of] an impasse is declared. If the parties do not reach an agreement by [January] February [[15]] 1, an impasse exists. Any issue regarding the negotiability of any bargaining proposal must be referred to the Labor Relations Administrator for an expedited determination.
- (2) [[This]] Any dispute, except a dispute involving the negotiability of a bargaining proposal, [shall] must be submitted to the mediator/[fact-finder] arbitrator whenever an impasse has been reached, or [before that] as provided in subsection (e)(1). The mediator/[fact-finder] arbitrator [shall] must engage in mediation by bringing the parties together voluntarily under such favorable circumstances as will [tend to bring about the] encourage settlement of the dispute.

(3) If [and when] the mediator/[fact-finder] arbitrator finds, in [his] the mediator/arbitrator's sole discretion, that the parties are at a bona fide impasse, [he shall implement the following fact-finding process:] or as of February [[15]] 1 when an impasse is automatically reached, whichever occurs earlier, the dispute must be submitted to binding arbitration.

[(a.) He shall require the parties to submit jointly a memorandum of all items previously agreed upon, and separate memoranda of their proposals on all items not previously agreed upon.]

(f)(1) If binding arbitration is invoked, the mediator/arbitrator must require each party to submit a final offer, which must consist either of a complete draft of a proposed collective bargaining agreement or a complete package proposal, as the mediator/arbitrator directs. If only complete package proposals are required, the mediator/arbitrator must require the parties to submit jointly a memorandum of all items previously agreed on. [[The final offer submitted by each party must separately identify economic and non-economic proposals. Economic proposals must include only salary and wages (including wage premiums or differentials, allowances, merit increments, and

101 amounts allocated for cash awards), pension and other  
 102 [[welfare]] retirement benefits, and employee benefits such as  
 103 [[health]] insurance. The mediator/arbitrator must decide any  
 104 issue regarding whether a particular proposal is economic or  
 105 non-economic.]]

106 [(b.)] (2) [He] The mediator/arbitrator may require the parties to submit  
 107 oral or written evidence [or make oral or written] and  
 108 arguments in support of their proposals. [He] The  
 109 mediator/arbitrator may hold a hearing for this purpose at a  
 110 time, date, and place selected by [him] the mediator/arbitrator.  
 111 This hearing [shall] must not be open to the public.

112 [(c.)] (3) [On or before February 1, the mediator/fact-finder shall issue a  
 113 report of his findings of fact and recommendations on those  
 114 matters still in dispute between the parties. The report shall be  
 115 submitted to the parties but shall not be made public at this  
 116 time.]

117 On or before [[March 1]] February 15, the mediator/arbitrator  
 118 must select, as a whole, the more reasonable of [[(A)]] the final  
 119 [[economic]] offers submitted by the parties[, and (B) the final  
 120 non-economic offers submitted by the parties]]. [[With regard

121 to the economic offers, the]] The mediator/arbitrator must not  
 122 compromise or alter a final offer. The mediator/arbitrator must  
 123 not consider or receive any argument or evidence related to the  
 124 history of collective bargaining in the immediate dispute,  
 125 including any previous settlement offer not contained in the  
 126 final offers. However, the mediator/arbitrator must consider all  
 127 previously agreed-on [[economic]] items, integrated with the  
 128 disputed [[economic]] items, to decide which [[economic]]  
 129 offer is the most reasonable. [[The mediator/arbitrator must  
 130 also decide which of each of the parties' non-economic  
 131 proposals is the most reasonable under all the circumstances.  
 132 The mediator/arbitrator may compromise, alter, or reject any  
 133 non-economic proposal.]]

134 [(d.)) (4) In making [findings of fact and recommendations] a  
 135 determination under this subsection, the mediator/[fact-finder]  
 136 arbitrator may [take into account] consider only the following  
 137 factors:

138 [(i)] (A) Past collective bargaining agreements between the  
 139 parties, including the past bargaining history that led to  
 140 the agreements, or the pre-collective bargaining history

141 of employee wages, hours, benefits, and working  
 142 conditions.

143 [(ii)] (B) Comparison of wages, hours, benefits, and conditions of  
 144 employment of similar employees of other public  
 145 employers in the Washington Metropolitan Area and in  
 146 Maryland.

147 [(iii)] (C) Comparison of wages, hours, benefits, and conditions of  
 148 employment of other Montgomery County personnel.

149 [(iv)] (D) Wages, benefits, hours, and other working conditions of  
 150 similar employees of private employers in Montgomery  
 151 County.

152 [(v)] (E) The interest and welfare of the public.

153 [(vi)] (F) The ability of the employer to finance economic  
 154 adjustments, and the effect of the adjustments [upon] on  
 155 the normal standard of public services provided by the  
 156 employer.

157 (5) The [[economic [[offer]] and non-economic offers]] offer  
 158 selected by the mediator/arbitrator, [[together with the  
 159 mediator/arbitrator's conclusion on each non-economic  
 160 proposal,]] integrated with all previously agreed on items, [[is]]

161                    [[comprise]] is the final agreement between the employer and  
 162                    the certified representative, need not be ratified by any party,  
 163                    and [[has]] [[have]] has the effect of a contract ratified by the  
 164                    parties under subsection (c). The parties must execute the  
 165                    agreement, and any provision which requires action in the  
 166                    County budget must be included in the budget which the  
 167                    employer submits to the County Council.

168            (f) After receiving the report of the mediator/fact-finder, the parties shall  
 169                    meet again to bargain. If 10 days after the parties receive the report  
 170                    they have not reached full agreement, or if either party does not  
 171                    accept, in whole or in part, the recommendations of the mediator-fact-  
 172                    finder, the report of the mediator-fact-finder, with recommendations  
 173                    on agreed items deleted, shall be made public by sending it to the  
 174                    Council. The mediator/fact-finder shall also send the Council the  
 175                    joint memorandum of items agreed upon, up-dated with any items  
 176                    later agreed upon. The parties shall also send to the Council separate  
 177                    memoranda stating their positions on matters still in dispute.]

178            (g) The [[budget that the]] employer [[submits]] must submit to the  
 179                    Council [shall] [[must include the items that have been agreed to, as  
 180                    well as the employer's position on matters still in dispute. Any agreed

181 or disputed]] any term or condition [[submitted to the Council]] of the  
 182 collective bargaining agreement that requires an appropriation of  
 183 funds, or the enactment[, repeal, or modification] or adoption of any  
 184 County law or regulation, or which has or may have a present or  
 185 future fiscal impact[[, may be accepted or rejected in whole or in part  
 186 by the Council]]. [Such terms or conditions shall be identified to the  
 187 Council by either or both parties.] The employer must expressly  
 188 identify to the Council and the certified representative any term or  
 189 condition that requires Council review. The employer [shall] must  
 190 make a good faith effort to have the Council [[take action to  
 191 implement]] approve [any term or condition to which the parties have  
 192 agreed] all terms of the final agreement that require Council review.

193 (h) The Council may hold a public hearing to enable the parties and the  
 194 public to testify on the agreement [and the recommendations for  
 195 resolving bargaining disputes].

196 (i) The Council may accept or reject all or part of any term or condition  
 197 that requires Council review under subsection (g). On or before May  
 198 1, the Council [shall] must indicate by resolution its intention to  
 199 appropriate funds for or otherwise implement the [items that have  
 200 been agreed to] [[agreement]] items that require Council review or its



intention not to do so, and [shall] must state its reasons for any intent to reject any [items of the kind specified in subsection (g) that have been agreed to] [[item of the final agreement]] such item. [The Council shall also indicate by resolution its position on disputed matters which could require an appropriation of funds or enactment, repeal, or modification of any County law or regulation, or which have present or future fiscal impact.]

- (j) [Then] If the Council indicates its intention to reject any item [[of the final agreement]] that requires Council review, the Council [shall] must designate a representative to meet with the parties and present the Council's views in the parties' further negotiation on [disputed matters and/or agreed upon] [[matters]] items that the Council has indicated its intention to reject. This representative must also participate fully in stating the Council's position in any ensuing impasse procedure. The parties must meet as promptly as possible and attempt to negotiate an agreement acceptable to the Council. Either party may at this time initiate impasse procedures under this Section. The parties must submit the results of the negotiation, whether a complete or a partial agreement, [shall be submitted] to the Council on or before May 10. The Council then must consider the

221 agreement as renegotiated by the parties and indicate by resolution its  
 222 intention to appropriate funds for or otherwise implement the  
 223 agreement, or its intention not to do so.

224 (k) Any agreement [shall] must provide for automatic reduction or  
 225 elimination of wage [and/]or benefits adjustments if:

226 (1) The Council does not take action necessary to implement the  
 227 agreement, or a part of it; or

228 (2) Sufficient funds are not appropriated for any fiscal year [in  
 229 which] when the agreement is in effect.


230 [(k)] (l) The Council [shall] must take [whatever actions it considers] any  
 231 action required by the public interest with respect to [matters] any  
 232 matter still in dispute between the parties. However, [those actions  
 233 shall not be] any action taken by the Council is not part of the  
 234 agreement between the parties unless the parties specifically  
 235 incorporate [them] it in the agreement.

236 *Approved:*

237 Michael L. Subin  
 Michael L. Subin, President, County Council

3/9/00  
 Date

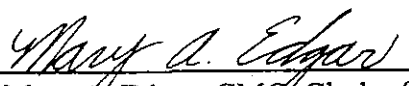
238 *Approved:*

239   
Douglas M. Duncan, County Executive

March 16, 2000

Date

240 *This is a correct copy of Council action.*

241   
Mary A. Edgar, CMC, Clerk of the Council

March 21, 2000

Date

Bill No. 10-00  
Concerning: Collective Bargaining  
Police - Sergeants  
Revised: 6-6-00 Draft No. 6  
Introduced: March 14, 2000  
Enacted: June 6, 2000  
Executive: June 19, 2000  
Effective: September 18, 2000  
Sunset Date: None  
Ch. 16, Laws of Mont. Co. 2000

## COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND

By: Councilmembers Berlage, Andrews, Leggett, Silverman, and Ewing

**AN ACT to:**

- (1) bring police sergeants within the scope of collective bargaining;
- [[ (2) divide the police collective bargaining unit into two bargaining units;]] [[and]]
- [[ (3) limit the scope of collective bargaining for members of the police sergeants bargaining unit;]] and
- [[ (4) ] (2) generally amend the law regarding collective bargaining with County police officers.

By amending

Montgomery County Code  
Chapter 33, Personnel and Human Resource  
Sections 33-76, [[and]] 33-78, and 33-80

[[By adding

Chapter 33, Personnel and Human Resource  
Section 33-78A]]

<b>Boldface</b>	<i>Heading or defined term.</i>
<u>Underlining</u>	<i>Added to existing law by original bill.</i>
<b>[Single boldface brackets]</b>	<i>Deleted from existing law by original bill.</i>
<u>Double underlining</u>	<i>Added by amendment.</i>
<b>[[Double boldface brackets]]</b>	<i>Deleted from existing law or the bill by amendment.</i>
* * *	<i>Existing law unaffected by bill.</i>

*The County Council for Montgomery County, Maryland approves the following Act:*

**Sec. 1. Sections 33-76, ~~[[and]] 33-78, and 33-80~~ are amended~~[[, and~~**  
**Section 33-78A is added,]] as follows:**

**33-76. Definitions.**

When used in this Article:

\* \* \*

*Certified representative* means an employee organization selected in accordance with [the procedures of] this Chapter to represent [the] a unit.

*Employee* means any police officer [in the classification of] classified as a sergeant, master police officer I, master police officer II, police officer I, police officer II, police officer III, [and] or police officer candidate, or an equivalent nonsupervisory classification[s], but not [those] a police officer in [the classification of police sergeant or] any [equivalent or] higher classification. [[*Employee* does not include a sergeant whose primary duties involve human resources, internal affairs, legal matters, labor relations, or policy development and compliance.]]

*Employer* means the County Executive and [his] the Executive's designees.

\* \* \*

*Unit* means [all employees] ~~[[either of the units defined in Section 33-78A]]~~ all employees.

**33-78. Employee rights.**

\* \* \*

(b) The employer [shall have the duty to] must extend to the certified representative the exclusive right to represent the employees [[in that bargaining unit]] for the purposes of collective bargaining, including the orderly processing and settlement of grievances as agreed by the parties.

(c) A certified representative [shall] must serve as the bargaining agent for all employees [[in the unit for which it is certified]] and [shall have the duty to] must represent fairly and without discrimination all employees [[in that unit]] without regard to whether the employees are [or are not] members of the employee organization, [or are paying] pay dues or other contributions to it, or [participating] participate in its affairs. [; provided, however, that it shall not be deemed] However, it is not a violation of this duty for a certified representative to seek enforcement of an agency shop provision in a valid collective bargaining agreement.

\* \* \*

**[[33-78A. Bargaining units.]]**

[[For purposes of certification and collective bargaining, employees subject to this Article must be divided into 2 bargaining units, composed of the following employees:

(1) sergeants;

(2) all other covered employees.]]

41 **33-80. Collective Bargaining.**

42 (a) **Duty to bargain; matters subject to bargaining.** [[Upon certification  
43 of an]] A certified employee organization[[, as provided in section 33-  
44 79,]] and the employer [[and the said certified representative shall have  
45 the duty, through their designees, to]] must bargain collectively [[with  
46 respect to those]] on the following subjects [[as follows]]:

47 \* \* \*

48 (7) The effect on employees of the employer's exercise of rights  
49 [[enumerated]] listed in subsection (b) [[hereof]][[, but this  
50 paragraph does not apply to the bargaining unit composed of  
51 sergeants]].

52 \* \* \*

53 *Approved:*

54 /S/ 6/7/00

---

Michael L. Subin, President, County Council Date

55 *Approved:*

56 /S/ 6/19/00

---

Douglas M. Duncan, County Executive Date

57 *This is a correct copy of Council action.*

58 /S/ 6/19/00

---

— Mary A. Edgar, CMC, Clerk of the Council Date

Bill No. 9-01  
Concerning: County Employees-  
Collective Bargaining Units  
Revised: 5-2-02 Draft No. 3  
Introduced: February 27, 2001  
Enacted: May 7, 2002  
Executive: May 20, 2002  
Effective: August 19, 2002  
Sunset Date: None  
Ch. 8, Laws of Mont. Co. 2002

## COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND

By: Councilmember Subin, Council President Ewing, and Councilmembers Leggett, Berlage,  
Denis, Silverman, and Andrews

### AN ACT to:

- (1) include certain County employees in a collective bargaining unit, subject to certain limits on the scope of bargaining; and
- (2) generally amend the law governing collective bargaining with County employees.

### By amending

Montgomery County Code  
Chapter 33, Personnel and Human Resources  
[[Section]] Sections 33-102, 33-105, and 33-107

<b>Boldface</b>	<i>Heading or defined term.</i>
<u>Underlining</u>	<i>Added to existing law by original bill.</i>
[Single boldface brackets]	<i>Deleted from existing law by original bill.</i>
<u>Double underlining</u>	<i>Added by amendment.</i>
[[Double boldface brackets]]	<i>Deleted from existing law or the bill by amendment.</i>
* * *	<i>Existing law unaffected by bill.</i>

*The County Council for Montgomery County, Maryland approves the following Act:*



Sec. 1. ~~[[Section is]]~~ Sections 33-102, 33-105, and 33-107 are amended as follows:

**33-102. Definitions.**

The following terms have the meaning indicated when used in this Article:

\* \* \*

(4) Employee means any person who works ~~[[under]]~~ for the County government ~~[[merit system on a continuous full-time, career or part-time, career basis, or an a temporary, seasonal, or substitute basis]]~~, except:

(A) ~~[[Confidential aides]]~~ a confidential aide to an elected ~~[[officials.]]~~ official;

(B) ~~[[All persons who are not covered by the County government merit system.]]~~ a person holding a position designated by law as a non-merit position;

(C) ~~[[Heads]]~~ a head of a principal ~~[[departments, offices, and agencies.]]~~ department, office, or agency;

(D) ~~[[Deputies and assistants]]~~ a deputy or assistant to ~~[[heads]]~~ a head of a principal ~~[[departments, offices, and agencies.]]~~ department, office, or agency;

(E) ~~[[Persons]]~~ an employee who ~~[[provide]]~~ provides direct staff or administrative support to the head of a principal department, office, or agency, or to a deputy or assistant within the immediate office of a head of a principal department, office, or agency~~[[.]]~~;

(F) ~~[[Persons]]~~ an employee who ~~[[report]]~~ reports directly to, or whose immediate supervisor is;

(i) the County Executive ~~[[or]]~~;

- 28                   (ii) the Chief Administrative Officer; or
- 29                   (iii) [[their principal aides.]] a principal aide of the
- 30                   County Executive or Chief Administrative Officer;
- 31       (G) [[Persons]] an employee who [[work]] works for:
- 32                   (i) the Office of the County Executive [[and]];
- 33                   (ii) the Office of the Chief Administrative Officer~~[[.]];~~
- 34       [(H)] (iii) [[Persons who work for]] the County Council[[.]];
- 35       [(I)] (iv) [[Persons who work for]] the Office of the County
- 36                   Attorney~~[[.]];~~
- 37       [(J)] (v) [[Persons who work for]] the Office of Management
- 38                   and Budget~~[[.]];~~
- 39                   (vi) the Office of Intergovernmental Relations;
- 40       [(K)] (vii) [[Persons who work for]] the Office of Human
- 41                   Resources~~[[.]];~~ or
- 42       [(L)] (viii) [[Persons who work for]] the Merit System
- 43                   Protection Board~~[[.]];~~
- 44       [(M)] (H) [[Persons who work on a temporary, seasonal, or substitute
- 45                   basis.]] an employee in a temporary, seasonal, or substitute
- 46                   position, unless the position is in a job class in which the
- 47                   incumbents are predominantly career merit system
- 48                   employees;
- 49       [(N)] (I) [[Newly hired persons on probationary status.]] a recently-
- 50                   hired employee who has not completed the probationary
- 51                   period;
- 52       [(O)] (J) [[Persons who work for the Police Department and are
- 53                   represented by a certified employee organization under
- 54                   Article V.]] an employee in the police bargaining unit;

55 [(P)] (K) [[Persons who work for the Department of Fire and  
 56 Rescue Services and are represented by a certified  
 57 employee organization under Article X.]] an employee in  
 58 the firefighter/rescuer bargaining unit;

59 [(Q)] (L) [[Officers in the uniformed services (Corrections, Fire  
 60 and Rescue, Police, Office of the Sheriff) in the rank of  
 61 sergeant and above.]] a uniformed officer in the  
 62 Department of Correction & Rehabilitation at the rank of  
 63 sergeant or higher;

64 (M) [[Subject]] subject to any limitations in State law,  
 65 [[deputy sheriffs below the rank of sergeant are  
 66 employees.]] a uniformed officer in the Office of the  
 67 Sheriff at the rank of sergeant or higher;

68 [(R)] (N) [[Persons]] an employee who [[are members]] is a member  
 69 of the State merit system[.];

70 [(S)] (O) [[Supervisors, which means persons having]] a supervisor,  
 71 meaning an employee who has the authority to:

72 (i) hire, assign, transfer, lay off, recall, promote,  
 73 evaluate, reward, discipline, suspend, or discharge  
 74 employees, or effectively recommend any of these  
 75 actions;

76 (ii) direct the activity of 3 or more employees; or

77 (iii) adjust or recommend adjustment of grievances[.];

78 [(T) Persons grade 27 or above, whether or not they are  
 79 supervisors.]

80 (P) an employee in a position classified at grade 27 or above  
 81 unless the employee's position is reclassified or reallocated

on or after July 1, 2002, to a non-supervisory position at grade 27 or above; or

(Q) an employee in a position classified in the Management Leadership Service.

\* \* \*

**33-105. Units for collective bargaining.**

(a) There are 2 units for collective bargaining and for purposes of certification and decertification. [[Persons in]] Members of these units are all County government [[merit system]] employees [[working on a continuous full-time, career or part-time, career basis]], [[except any person who is not]] as defined [[as an employee]] in Section 33-102(4), and those employees who are limited-scope members of a bargaining unit under subsection (c)(2). The employees are divided into 2 units:

\* \* \*

(2)	*	*	*
[[a.]] (A)	*	*	*
[[b.]] (B)	*	*	*
[[c.]] (C)	*	*	*
[[d.]] (D)	*	*	*

\* \* \*

(c) Temporary, seasonal, and substitute employees.

(1) A temporary, seasonal, or substitute employee in an occupational class in which the incumbents are predominantly career merit system employees becomes a member of the applicable bargaining unit when the employee has worked 6 months in a position in that occupational class. However, the employee may be terminated for any cause or without cause and without any

right of grievance until the employee has completed 1040 hours of service in that position in any 12-month period.

(2) A temporary, seasonal, or substitute employee who is excluded from the definition of "employee" under Section 33-102(4)(H) because the employee is not in an occupational class in which the incumbents are predominantly career merit system employees becomes a limited-scope member of the applicable bargaining unit immediately after the employee begins employment if:

(A) the employee works at least 25 hours per pay period; and

(B) the employee organization which represents that bargaining unit has adopted a reduced scale of dues and service fees for employees in the limited-scope membership group that is generally proportional to the organization's representational responsibilities for employees in that group relative to the organization's representational responsibilities for other bargaining unit members, as determined by the employee organization.

Membership in a bargaining unit on a limited-scope basis must not carry any right to continued employment or access to any grievance procedure or other benefit that is extended to other bargaining unit members.

### **33-107. Collective bargaining.**

*(a) Duty to bargain; matters subject to bargaining.* Upon certification of an employee organization, the employer and the certified representative have the duty to bargain collectively with respect to the following subjects for employees other than limited-scope members of the bargaining unit under Section 33-105(c)(2):

\* \* \*

- (2) Pension and other retirement benefits [[shall be negotiable,]] for active employees only, [[one (1) year after the effective date of this article]] but the parties must not bargain over the participation by any employee who is a member of the bargaining unit under Section 33-105(c)(1) in either the Integrated Retirement Plan or the Retirement Savings Plan.

\* \* \*

- (5) Provisions for the orderly processing and settlement of grievances concerning the interpretation and implementation of a collective bargaining agreement, which may include:

[[a.]] (A) Binding third party arbitration for employees other than members of the bargaining unit under Section 33-105(c)(1), [[provided that]] but the arbitrator [[shall have no authority to]] must not amend, add to, or subtract from the provisions of the collective bargaining agreement; and

[[b.]] (B) Provisions for exclusivity of forum.

The duty to bargain under this subsection, and any agreement reached as a result of bargaining, must not limit the employer's authority to require a newly-hired employee to remain in probationary status, during which the employee may be terminated for any cause or without cause and without any right of grievance, for a period that does not exceed 6 months. Unless a specific probationary period is required by law, the parties may agree on any probationary period that is not less than 6 months.

- (b) Duty to bargain for limited-scope employees. The employer and the certified representative have the duty to bargain collectively on only the

following subjects with respect to employees who are limited-scope members of the bargaining unit under Section 33-105(c)(2):

(1) wage scales and general wage adjustments; and

(2) dues or service fee deductions.

[[ (b) ]] (c) \* \* \*

[[ (c) ]] (d) \* \* \*

[[ (d) ]] (e) Agreement. \* \* \*

Sec. 2. Transition.

The certified representative and the employer must bargain under Section 33-107 with respect to temporary, seasonal, and substitute employees who are members of a bargaining unit, including limited-scope employees, immediately after this Act becomes law. The procedures for impasse resolution under Section 33-108 apply to this bargaining process, but the specific action deadlines in that section do not apply. An initial agreement between the certified representative and the employer with respect to temporary, seasonal, and substitute employees must expire on the same date as the existing agreements for the SLT and OPT bargaining units.

Approved:

Steven A. Silverman  
Steven A. Silverman, President, County Council

5/9/02  
Date

Approved:

Douglas M. Duncan  
Douglas M. Duncan, County Executive

5/22/02  
Date

This is a correct copy of Council action.

Mary A. Edgar  
Mary A. Edgar, CMC, Clerk of the Council

5/22/02  
Date

Bill No. 13-01  
Concerning: Collective Bargaining --  
Fire/Rescue Employees  
Revised: 3/15/01 Draft No. 1  
Introduced: March 20, 2001  
Enacted: July 17, 2001  
Executive: July 30, 2001  
Effective: October 29, 2001  
Sunset Date: None  
Ch. 15, Laws of Mont. Co. 2001

## COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND

---

By: Council President at the Request of the County Executive

---

**AN ACT** to:

- (1) include certain fire/rescue lieutenants and captains in the bargaining unit with certain fire/rescue employees for the purpose of collective bargaining; and
- (2) generally amend the law regarding collective bargaining for fire/rescue employees.

By amending

Montgomery County Code  
Chapter 33, Personnel and Human Resources  
Sections 33-148 and 33-151

<b>Boldface</b>	<i>Heading or defined term.</i>
<u>Underlining</u>	<i>Added to existing law by original bill.</i>
[Single boldface brackets]	<i>Deleted from existing law by original bill.</i>
<u>Double underlining</u>	<i>Added by amendment.</i>
[[Double boldface brackets]]	<i>Deleted from existing law or the bill by amendment.</i>
* * *	<i>Existing law unaffected by bill.</i>

*The County Council for Montgomery County, Maryland approves the following Act:*



1        **Sec. 1. Sections 33-148 and 33-151 are amended as follows:**

2        **33-148. Definitions.**

3        The following terms have the meaning indicated when used in this Article:

4                                \*        \*        \*

5        (2)    **Certified representative** means an **employee** organization chosen to  
6        represent the **unit** as the exclusive bargaining agent [in accordance  
7        with] under this Article or Article VII.

8                                \*        \*        \*

9        (4)    **Employee** means [any] a fire and rescue **employee** in the  
10       classification of Fire/Rescue Captain, Fire/Rescue Lieutenant, Master  
11       Firefighter/Rescuer, Firefighter/Rescuer III, Firefighter/Rescuer II,  
12       and Firefighter/Rescuer I, but not [any **employee**]:

13       (A)    an employee in a probationary status[, or];

14       (B)    an employee in the classification of [Fire/Rescue Lieutenant]  
15       District Chief or [any] an equivalent or higher classification[.];  
16       or

17       (C)    a Fire/Rescue Lieutenant or Captain whose primary assignment  
18       is in:

19            (i)    budget;

20            (ii)   internal affairs;

21            (iii)   labor relations;

22            (iv)   human resources;

23            (v)    public information; or

24            (vi)   quality assurance.

25                                \*        \*        \*

26        **33-151. Selection, certification, and decertification procedures.**

- (a) [Any] An employee organization seeking certification as representative of the **unit** must file a petition with the Labor Relations Administrator stating its name, address, and its desire to be certified. The **employee** organization must also send a copy of the petition, including a copy of the signatures of the supporting **employees** on the petition, to the employer. The petition must contain the uncoerced signatures of 30 percent of the **employees** in the **unit**, signifying [their] the employees' desire to be represented by the **employee** organization for purposes of collective bargaining.

\* \* \*

Approved:

Blair G. Ewing July 18, 2001  
Blair G. Ewing, President, County Council Date

Douglas M. Duncan July 30, 2001  
Douglas M. Duncan, County Executive Date

*This is a correct copy of Council action.*

Mary A. Edgar July 30, 2001  
Mary A. Edgar, CMC, Clerk of the Council Date

This page is  
intentionally blank.

Expedited Bill No. 30-03  
Concerning: Collective Bargaining -  
Schedule and Process  
Revised: 9-22-03 Draft No. 1  
Introduced: September 9, 2003  
Enacted: September 30, 2003  
Executive: October 9, 2003  
Effective: October 9, 2003  
Sunset Date: None  
Ch. 22, Laws of Mont. Co. 2003

## COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND

---

By: Management and Fiscal Policy Committee

---

### AN EXPEDITED ACT to:

- (1) modify the process and schedule for collective bargaining with County bargaining units;  
and
- (2) repeal obsolete provisions, update language, and generally amend the laws governing  
collective bargaining by County employees, including public safety employees.

### By amending

Montgomery County Code  
Chapter 33, Personnel and Human Resources  
Sections 33-79, 33-80, 33-81, 33-106, 33-108, and 33-153

<b>Boldface</b>	<i>Heading or defined term.</i>
<u>Underlining</u>	<i>Added to existing law by original bill.</i>
[Single boldface brackets]	<i>Deleted from existing law by original bill.</i>
<u>Double underlining</u>	<i>Added by amendment.</i>
[[Double boldface brackets]]	<i>Deleted from existing law or the bill by amendment.</i>
* * *	<i>Existing law unaffected by bill.</i>

*The County Council for Montgomery County, Maryland approves the following Act:*

1       **Sec. 1. Sections 33-79, 33-80, 33-81, 33-106, 33-108, and 33-153 are amended as**  
 2       **follows:**

3       **33-79. Selection, certification and decertification procedures.**

- 4       (a) The certification or decertification of an employee organization as the unit's  
 5       representative for the purpose of collective bargaining shall be initiated in  
 6       accordance with the following procedures:

7                               \*       \*       \*

- 8       (4) Petitions [may be filed between July 1, 1982, and July 31, 1982. Thereafter,  
 9       petitions] may be filed between September 1 and September 30 of any year,  
 10       but no sooner than [twenty-two (22)] 22 months following an election held  
 11       pursuant to this section.

12                           \*       \*       \*

- 13       [(6) If, during the period of July 1 to July 31, 1982, a petition is filed by the  
 14       incumbent representative of unit employees certified under the employer-  
 15       employee relations article of this chapter, and no other employee  
 16       organization files a valid petition, that incumbent certified representative  
 17       shall be certified without an election, provided it produces evidence,  
 18       acceptable to the permanent umpire, of majority representation.]

19                           \*       \*       \*

20       **33-80. Collective bargaining.**

21                           \*       \*       \*

- 22       (g) Submission to Council [review]. A ratified agreement shall be binding on the  
 23       employer and the certified representative, and shall be reduced to writing and  
 24       executed by both parties. In each proposed annual operating budget, the County  
 25       Executive shall describe any collective bargaining agreement or amendment to an  
 26       agreement that is scheduled to take effect in the next fiscal year and estimate the cost  
 27       of implementing that agreement. Any term or condition [thereof] of a collective  
 28       bargaining agreement which requires an appropriation of funds or enactment, repeal  
 29       or modification of a County law shall be timely submitted to the County Council by  
 30       the employer [and the] by April 1, unless extenuating circumstances require a later

date. If a later submission is necessary, the employer shall specify the submission date and the reasons for delay to the Council President by April 1. The employer shall make a good faith effort to have such term or condition implemented by Council action. Each submission to the Council shall include:

- (1) all proposed legislation and regulations necessary to implement the collective bargaining agreement;
- (2) all changes from the previous collective bargaining agreement, indicated by brackets and underlines or a similar notation system; and
- (3) all side letters or other extraneous documents that are binding on the parties.

(h) Council review. On or before May 1, the County Council shall indicate by resolution its intention to appropriate funds for or otherwise implement the agreement or its intention not to do so, and shall state its reasons for any intent to reject any part of the agreement. The Council, by majority vote taken on or before May 1, may defer the May 1 deadline to any date not later than May 15. If the Council indicates its intention to reject any part, it shall designate a representative to meet with the parties and present the Council's views in their further negotiations. This representative shall also participate fully in stating the Council's position in any ensuing impasse procedure. The parties shall thereafter meet as promptly as possible and attempt to negotiate an agreement acceptable to the Council. Either of the parties may initiate the impasse procedure set forth in Section 33-81. The results of the negotiation or impasse procedure shall be submitted to the Council on or before May 10. If the Council has deferred the May 1 deadline, that action automatically postpones the May 10 deadline by the same number of days.

(i) Adjustments. Any agreement shall provide either for automatic reduction or elimination of conditional wage [and/]or benefits adjustments if:

- (1) the Council [fails to] does not take action necessary to implement the agreement, or
- (2) [if] sufficient funds are not appropriated for any fiscal year [in which] when the agreement is in effect.

(j) Later years. The process and timetable in subsection (h) apply to Council review of wage or benefits adjustments after the first year of any multi-year agreement.

(k) Out-of-cycle amendments. The process in subsection (h) applies to Council review of any amendment to a collective bargaining agreement that the Council receives after May 15 of any year, but the deadlines in subsection (h) do not apply. The Council President shall set action deadlines which result, to the extent feasible, in a similar timetable relative to the date the Council received the amendment.

**33-81. Impasse procedure.**

(a) [Prior to November] Before September 10 of any year in which the employer and a certified representative bargain collectively, they shall choose an impasse neutral either by agreement or through the processes of the American Arbitration Association. The impasse neutral shall be required to be available during the period from January 20 to February 1. Fees, costs and expenses of the impasse neutral shall be shared equally by the employer and the certified representative.

\* \* \*

**33-106. Selection, certification, and decertification procedures.**

\* \* \*

[(e) If, during the thirty (30) days following the effective date of this article, a petition is filed by the incumbent representative of unit employees certified under article IV of this chapter, and no other employee organization files a valid petition, and no petition calling for an election signed by twenty (20) percent of unit employees has been filed with the labor relations administrator, the incumbent certified representative shall be certified without an election, provided it produces evidence, acceptable to the labor relations administrator and dated after the enactment of this article, that a majority of the employees in the unit desire to be represented by the incumbent representative for the purposes of collective bargaining under the provisions of this article.]

**33-108. Bargaining, impasse, and legislative procedures.**

\* \* \*

(d) Before [November] September 10 of any year in which the employer and the certified representative bargain collectively, the Labor Relations Administrator must appoint a mediator/arbitrator, who may be a person recommended by both parties. The mediator/arbitrator must be available from January 2 to June 30. Fees and

93 expenses of the mediator/arbitrator must be shared equally by the employer and the  
 94 certified representative.

95 \* \* \*

96 (g) In each proposed annual operating budget, the County Executive must describe any  
 97 collective bargaining agreement or amendment to an agreement that is scheduled to  
 98 take effect in the next fiscal year and estimate the cost of implementing that  
 99 agreement. The employer must submit to the Council by April 1, unless extenuating  
 100 circumstances require a later date, any term or condition of the collective bargaining  
 101 agreement that requires an appropriation of funds, or the enactment or adoption of  
 102 any County law or regulation, or which has or may have a present or future fiscal  
 103 impact. If a later submission is necessary, the employer must specify the submission  
 104 date and the reasons for delay to the Council President by April 1. The employer  
 105 must expressly identify to the Council and the certified representative any term or  
 106 condition that requires Council review. Each submission to the Council must  
 107 include:

108 (1) all proposed legislation and regulations necessary to implement the  
 109 collective bargaining agreement;

110 (2) all changes from the previous collective bargaining agreement, indicated by  
 111 brackets and underlines or a similar notation system; and

112 (3) all side letters or other extraneous documents that are binding on the parties.

113 The employer must make a good faith effort to have the Council approve all terms of  
 114 the final agreement that require Council review.

115 (h) The Council may hold a public hearing to enable the parties and the public to testify  
 116 on the agreement.

117 (i) The Council may accept or reject all or part of any term or condition that requires  
 118 Council review under subsection (g). On or before May 1, the Council must indicate  
 119 by resolution its intention to appropriate funds for or otherwise implement the items  
 120 that require Council review or its intention not to do so, and must state its reasons for  
 121 any intent to reject any such item. The Council, by majority vote taken on or before  
 122 May 1, may defer the May 1 deadline to any date not later than May 15.

23 (j) If the Council indicates its intention to reject any item that requires Council review,



the Council must designate a representative to meet with the parties and present the Council's views in the parties' further negotiation on items that the Council has indicated its intention to reject. This representative must also participate fully in stating the Council's position in any ensuing impasse procedure. The parties must meet as promptly as possible and attempt to negotiate an agreement acceptable to the Council. Either party may at this time initiate impasse procedures under this Section. The parties must submit the results of the negotiation, whether a complete or a partial agreement, to the Council on or before May 10. If the Council has deferred the May 1 deadline, that action automatically postpones the May 10 deadline by the same number of days. The Council then must consider the agreement as renegotiated by the parties and indicate by resolution its intention to appropriate funds for or otherwise implement the agreement, or its intention not to do so.

\* \* \*

(m) Later years. The process and timetable in subsections (i) and (j) apply to Council review of wage or benefits adjustments after the first year of any multi-year agreement.

(n) Out-of-cycle amendments. The process in subsections (i) and (j) applies to Council review of any amendment to a collective bargaining agreement that the Council receives after May 15 of any year, but the deadlines in those subsections do not apply. The Council President must set action deadlines which result, to the extent feasible, in a similar timetable relative to the date the Council received the amendment.

**33-153. Bargaining, impasse, and legislative procedures.**

\* \* \*

(d) Before [November] September 10 of any year in which the employer and the certified representative bargain collectively, they must choose an impasse neutral, either by agreement or through the processes of the American Arbitration Association. The impasse neutral must be available from January 15 to February 1. The impasse neutral's fees and expenses must be shared equally by the employer and the certified representative.

\* \* \*

(l) In each proposed annual operating budget, the County Executive must describe any collective bargaining agreement or amendment to an agreement that is scheduled to take effect in the next fiscal year and estimate the cost of implementing that agreement. The annual operating budget [which the employer submits to the County Council] must include sufficient funds to pay for the items in the parties' final agreement. The employer must expressly identify to the Council by April 1, unless extenuating circumstances require a later date, all terms and conditions in the agreement that:

- (1) require an appropriation of funds, or
- (2) are inconsistent with any County law or regulation, or
- (3) require the enactment or adoption of any County law or regulation, or
- (4) which have or may have a present or future fiscal impact.

If a later submission is necessary, the employer must specify the submission date and the reasons for delay to the Council President by April 1. The employer must make a good faith effort to have the Council take action to implement all terms and conditions in the parties' final agreement.

(m) Each agreement submitted to the Council must include:

- (1) all proposed legislation and regulations necessary to implement the agreement;
- (2) all changes from the previous collective bargaining agreement, indicated by brackets and underlines or a similar notation system; and
- (3) all side letters or other extraneous documents that are binding on the parties.

[(m)] (n) \* \* \*

[(n)] (o) The Council may accept or reject all or part of any term or condition in the agreement which:

- (1) requires an appropriation of funds, or
- (2) is inconsistent with any County law or regulation, or
- (3) requires the enactment or adoption of any County law or regulation, or
- (4) which has or may have a present or future fiscal impact.

On or before May 1, the Council must indicate by resolution its intention to

appropriate funds for or otherwise implement the agreement or its intention not to do so, and must state its reasons for any intention to reject any part of the parties' final agreement. The Council, by majority vote taken on or before May 1, may defer the May 1 deadline to any date not later than May 15.

[(o)] (p) If the Council indicates its intention to reject any part of the parties' final agreement, it must select a representative to meet with the parties and present the Council's views in the parties' further negotiation on matters that the Council has indicated its intention to reject. This representative must also participate fully in stating the Council's position in any ensuing impasse procedure. The parties must meet as promptly as possible and attempt to negotiate an agreement acceptable to the Council. Either party may at this time initiate impasse procedures under this section. The parties must submit the results of the negotiation, whether a complete or a partial agreement, to the Council on or before May 10. If the Council has deferred the May 1 deadline, that action automatically postpones the May 10 deadline by the same number of days. The Council then must consider the agreement as renegotiated by the parties and indicate by resolution its intention to appropriate funds for or otherwise implement the agreement or its intention not to do so.

[(p)] (q) \* \* \*

(r) Later years. The process and timetable in subsections (o) and (p) apply to Council review of wage or benefits adjustments after the first year of any multi-year agreement.

(s) Out-of-cycle amendments. The process in subsections (o) and (p) applies to Council review of any amendment to a collective bargaining agreement that the Council receives after May 15 of any year, but the deadlines in those subsections do not apply. The Council President must set action deadlines which result, to the extent feasible, in a similar timetable relative to the date the Council received the amendment.

## **Sec. 2. Expedited Effective Date.**

The Council declares that this legislation is necessary for the immediate protection of the public interest. This Act takes effect on the date on which it becomes law.

216 *Approved:*

217 *Michael L. Subin* 10/1/03  
Michael L. Subin, President, County Council Date

218 *Approved:*

219 *Douglas M. Duncan* 10/1/03  
Douglas M. Duncan, County Executive Date

220 *This is a correct copy of Council action.*

221 *Mary A. Edgar* 10/20/03  
Mary A. Edgar, CMC, Clerk of the Council Date

This page is  
intentionally blank.

Expedited Bill No. 19-04  
Concerning: Collective Bargaining -  
Police -  
Revised: 6-18-04 Draft No. 1  
Introduced: June 22, 2004  
Enacted: July 13, 2004  
Executive: July 16, 2004  
Effective: July 16, 2004  
Sunset Date: None  
Ch. 15, Laws of Mont. Co. 2004

## COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND

By: Council President at the Request of the County Executive

### AN EXPEDITED ACT to:

- (1) provide a process to resolve bargaining impasses over reopener issues and the employer's exercise of management rights that have an impact on bargaining unit employees;
- (2) make it a prohibited practice for the employer to refuse to participate in the impasse procedure after the employer implements a final offer on the effects of the exercise of an employer right; and
- (3) generally amend the law regarding collective bargaining with County police officers.

By amending

Montgomery County Code  
Chapter 33, Personnel and Human Resources  
Sections 33-81 and 33-82

<b>Boldface</b>	<i>Heading or defined term.</i>
<u>Underlining</u>	<i>Added to existing law by original bill.</i>
[Single boldface brackets]	<i>Deleted from existing law by original bill.</i>
<u>Double underlining</u>	<i>Added by amendment.</i>
[[Double boldface brackets]]	<i>Deleted from existing law or the bill by amendment.</i>
* * *	<i>Existing law unaffected by bill.</i>

*The County Council for Montgomery County, Maryland approves the following Act:*

1        **Sec. 1. Sections 33-81 and 33-82 are amended as follows:**

2        **33-81. Impasse procedure.**

3                                \*        \*        \*

4        (c)    An impasse over a reopener matter or the effects on employees of an  
5               exercise of an employer right must be resolved under the procedures  
6               in this subsection. Any other impasse over a matter subject to  
7               collective bargaining must be resolved under the impasse procedure in  
8               subsections (a) and (b).

9               (1)    Reopener matters.

10              (A)    If the parties agree in a collective bargaining agreement  
11                      to bargain over an identified issue on or before a  
12                      specified date, the parties must bargain under those  
13                      terms. Each identified issue must be designated as a  
14                      “reopener matter”.

15              (B)    When the parties initiate collective bargaining under  
16                      subparagraph (A), the parties must choose, by agreement  
17                      or through the processes of the American Arbitration  
18                      Association, an impasse neutral who agrees to be  
19                      available for impasse resolution within 30 days.

20              (C)    If, after bargaining in good faith, the parties are unable to  
21                      reach agreement on a reopener matter by the deadline  
22                      specified in the collective bargaining agreement, either  
23                      party may declare an impasse.

24              (D)    If an impasse is declared under subparagraph (C), the  
25                      dispute must be submitted to the impasse neutral no later

than 10 days after impasse is declared.

(E) The impasse neutral must resolve the dispute under the impasse procedure in subsection (b), except that:

(i) the dates in that subsection do not apply;

(ii) each party must submit to the impasse neutral a final offer on only the reopener matter; and

(iii) the impasse neutral must select the most reasonable of the parties' final offers no later than 10 days after the impasse neutral receives the final offers.

(F) This subsection applies only if the parties in their collective bargaining agreement have designated:

(i) the specific reopener matter to be bargained;

(ii) the date by which bargaining on the reopener matter must begin; and

(iii) the deadline by which bargaining on the reopener matter must be completed and after which the impasse procedure must be implemented.

(2) Bargaining over the effects of the exercise of an employer right.

(A) If the employer notifies the employee organization that it intends to exercise a right listed in Section 33-80(b), the exercise of which will have an effect on members of the bargaining unit, the parties must choose by agreement or through the processes of the American Arbitration



50           Association an impasse neutral who agrees to be  
51           available for impasse resolution within 30 days.

52           (B)   The parties must engage in good faith bargaining on the  
53           effects of the exercise of the employer right. If the  
54           parties, after good faith bargaining, are unable to agree  
55           on the effect on bargaining unit employees of the  
56           employer's exercise of its right, either party may declare  
57           an impasse.

58           (C)   If the parties bargain to impasse over the effects on  
59           employees of an exercise of an employer right that has a  
60           demonstrated, significant effect on the safety of the  
61           public, the employer may implement its last offer before  
62           engaging in the impasse procedure. A party must not  
63           exceed a time requirement of the impasse procedure. A  
64           party must not use the procedure in this paragraph for a  
65           matter that is a mandatory subject of bargaining other  
66           than the effects of the exercise of an employer right.

67           (D)   The parties must submit the dispute to the impasse  
68           neutral no later than 10 days after either party declares an  
69           impasse under subparagraph (B).

70           (E)   The impasse neutral must resolve the dispute under the  
71           impasse procedures in subsection (b), except that:

72           (i)    the dates in that subsection do not apply;

(ii) each party must submit to the impasse neutral a final offer only on the effect on employees of the employer's exercise of its right; and

(iii) the impasse neutral must select the most reasonable of the parties' final offers no later than 10 days after the impasse neutral receives the final offers and, if appropriate, must provide retroactive relief.

(F) If the impasse neutral has not issued a decision within 20 days after the impasse neutral receives the parties' final offers, the employer may implement its final offer until the impasse neutral issues a final decision.

### 33-82. Prohibited practices.

(a) The employer or its agents or representatives are prohibited from:

\* \* \*

(9) Engaging in a lockout of employees[.];

(10) delaying or refusing to participate in the impasse procedure in Section 33-81(c)(2) after the employer implements a final offer under Section 33-81(c)(2)(C).

\* \* \*

### Sec. 2. Expedited Effective Date.

The Council declares that this legislation is necessary for the immediate protection of the public interest. This Act takes effect on the date on which it becomes law.

97 *Approved:*

98

99

100



7/15/04

Steven A. Silverman, President, County Council

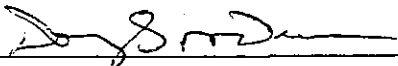
Date

101 *Approved:*

102

103

104



7/15/04

Douglas M. Duncan, County Executive

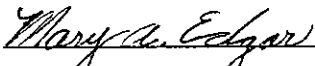
Date

105 *This is a correct copy of Council action.*

106

107

108



7/19/04

Mary A. Edgar, CMC, Clerk of the Council

Date

Expedited Bill No. 11-05  
Concerning: Collective Bargaining -  
[[Corrections]] Correction Department -  
Sergeants  
Revised: 5-6-05 Draft No. 2  
Introduced: April 26, 2005  
Enacted: June 28, 2005  
Executive: July 10, 2005  
Effective: July 10, 2005  
Sunset Date: None  
Ch. 8, Laws of Mont. Co., 2005

## COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND

---

By: Council President at the Request of the County Executive

---

**AN EXPEDITED ACT to:**

- (1) include uniformed Sergeants in the Department of [[Corrections]] Correction and Rehabilitation in the Office, Professional, and Technical bargaining unit; and
- (2) generally amend the law regarding County employees collective bargaining.

By amending

Montgomery County Code  
Chapter 33, Personnel and Human Resources  
Section 33-102

<b>Boldface</b>	<i>Heading or defined term.</i>
<u>Underlining</u>	<i>Added to existing law by original bill.</i>
<b>[Single boldface brackets]</b>	<i>Deleted from existing law by original bill.</i>
<u>Double underlining</u>	<i>Added by amendment.</i>
<b>[[Double boldface brackets]]</b>	<i>Deleted from existing law or the bill by amendment.</i>
* * *	<i>Existing law unaffected by bill.</i>

*The County Council for Montgomery County, Maryland approves the following Act:*

1       **Sec. 1. Section 33-102 is amended as follows:**

2       **33-102. Definitions.**

3       The following terms have the meaning indicated when used in this Article:

4                               \*       \*       \*

5               (4)   *Employee* means any person who works for the County  
6                       government, except:

7                               \*       \*       \*

8               (L)   a uniformed officer in the Department of ~~[[Corrections]]~~  
9                       Correction and Rehabilitation at the rank of [sergeant]  
10                      Lieutenant or higher;

11                              \*       \*       \*

12              (O)   a supervisor, [meaning an employee who has the  
13                       authority to:

14                      (i)   hire, assign, transfer, lay off, recall, promote,  
15                              evaluate, reward, discipline, suspend, or discharge  
16                              employees, or effectively recommend any of these  
17                              actions;

18                      (ii)   direct the activity of 3 or more employees; or

19                      (iii)   adjust or recommend adjustment of grievances]  
20                              other than a Sergeant in the Department of  
21                              ~~[[Corrections]]~~ Correction and Rehabilitation;

22                              \*       \*       \*

23              (10)   *Supervisor* means an employee who has the authority to:

24                      (A)   hire, assign, transfer, lay off, recall, promote, evaluate,  
                            reward, discipline, suspend, or discharge another

employee, or effectively recommend any of these  
actions;

(B) direct the activity of 3 or more employees; or

(C) adjust or recommend adjustment of any grievance.

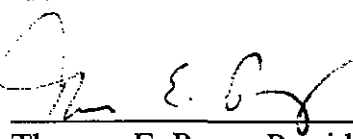
~~[(10)]~~ (11) *Unit* means either of the units defined in Section 33-105.

[(11) When either the female or the male pronoun appears herein, it is  
to be read to include both genders.]

**Sec. 2. Expedited Effective Date.**

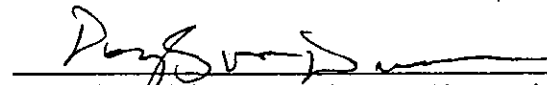
The Council declares that this legislation is necessary for the immediate  
protection of the public interest. This Act takes effect on the date on which it  
becomes law.

*Approved:*



Thomas E. Perez, President, County Council

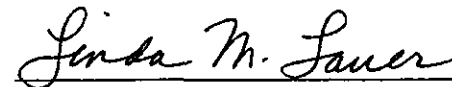
6/30/05  
Date



Douglas M. Duncan, County Executive

7/18/05  
Date

*This is a correct copy of Council action.*



Linda M. Lauer, Clerk of the Council

7/11/05  
Date

This page is  
intentionally blank.

Expedited Bill No. 2-07  
Concerning: Labor Relations – Term of  
Permanent Umpire and Labor Relations  
Administrator  
Revised: 2-27-07 Draft No. 3  
Introduced: January 16, 2007  
Enacted: February 27, 2007  
Executive: March 12, 2007  
Effective: March 12, 2007  
Sunset Date: None  
Ch. 1, Laws of Mont. Co. 2007

## COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND

By: Council President at the Request of the County Executive

### AN EXPEDITED ACT to:

- (1) clarify the procedure to be followed when a vacancy occurs in the position of permanent umpire or Labor Relations Administrator to administer the [[Police Labor Relations Law]] County's collective bargaining laws;
- (2) provide for the appointment of a replacement to serve the remainder of the umpire's or Administrator's term; and
- (3) generally amend the collective bargaining law regarding the appointment of permanent umpires and Labor Relations Administrators.

### By amending

Montgomery County Code  
Chapter 33, Personnel and Human Resources  
Sections 33-37, 33-103, and 33-149

<b>Boldface</b>	<i>Heading or defined term.</i>
<u>Underlining</u>	<i>Added to existing law by original bill.</i>
[Single boldface brackets]	<i>Deleted from existing law by original bill.</i>
<u>Double underlining</u>	<i>Added by amendment.</i>
[[Double boldface brackets]]	<i>Deleted from existing law or the bill by amendment.</i>
* * *	<i>Existing law unaffected by bill.</i>

*The County Council for Montgomery County, Maryland approves the following Act:*



**Sec. 1. ~~[[Section]]~~ Sections 33-77, 33-103, and 33-149 ~~[[is]]~~ are amended as follows:**

**33-77. Permanent umpire.**

\* \* \*

(b) The permanent umpire [shall] must be appointed by the County Executive, [with the] subject to confirmation [of] by the County Council, [shall] serve for a term of [five (5)] 5 years, and [shall be eligible for reappointment; provided, however, that the] may be reappointed to another 5-year term. The permanent umpire [shall] must not be reappointed if, during the period between [sixty (60)] 60 days and [thirty (30)] 30 days [prior to the expiration of his] before the umpire's term expires, the certified representative files a written objection to [such] the umpire's reappointment with the County Executive.

(c) If the permanent umpire dies, resigns, becomes disabled, or otherwise becomes unable or ineligible to continue to serve, the Executive must appoint a new permanent umpire, subject to confirmation by the Council, to serve [out] the remainder of the previous umpire's term. The umpire appointed under this subsection may be reappointed under subsection (b).

(d) The permanent umpire [shall] must be a person with experience as a neutral in the field of labor relations and [shall] must not be a person who, [[on account]] because of vocation, employment, or affiliation, can be [[classified]] categorized as a representative of the interests of the employer or any employee organization.

[(c)] (e) The permanent umpire [shall] must be paid a [[per diem]] daily fee as [set forth by] specified in a contract with the County, and [shall]

28 must be reimbursed for necessary expenses incurred in performing the  
 29 duties of umpire.

30 **33-103. Labor Relations Administrator.**

31 \* \* \*

32 (b) (1) The ~~[[labor relations administrator]]~~ Administrator must be a  
 33 person with experience as a neutral in the field of labor  
 34 relations, and must not be a person who, ~~[[on account]]~~ because  
 35 of vocation, employment, or affiliation, can be ~~[[classed]]~~  
 36 categorized as a representative of the interest of the employer or  
 37 any employee organization.

38 (2) ~~[[The first labor relations administrator is appointed by the~~  
 39 county executive, with the confirmation of the county council,  
 40 serves for a term of four (4) years, and is eligible for  
 41 reappointment.]]

42 ~~[[~~(3) After the initial term of office of the labor relations  
 43 administrator provided in subsection (b)(2), the county  
 44 executive shall thereafter~~]]~~ The County Executive must appoint,  
 45 subject to confirmation by the County Council, the ~~[[labor~~  
 46 relations administrator~~]]~~ Administrator for a term of ~~[[five (5)]]~~  
 47 5 years from a list of ~~[[five (5)]]~~ 5 nominees agreed upon by  
 48 any certified representative(s) and the ~~[[chief administrative~~  
 49 officer, which ~~]]~~ Chief Administrative Officer. The list may  
 50 include the incumbent ~~[[labor relations administrator]]~~  
 51 Administrator. [[Such appointment must be confirmed by the  
 52 county council.]] If the ~~[[county]]~~ Council does not confirm the  
 53 appointment, the new appointment ~~[[shall]]~~ must be from a new  
 54 agreed list of ~~[[five (5)]]~~ 5 nominees. ~~[[Should there be]]~~ If no

certified representative has been selected, the ~~[[labor relations administrator shall]]~~ Administrator must be appointed ~~[[under the procedure and for the term set forth in subsection (b)(2)]]~~ for a 4-year term by the Executive, subject to Council confirmation.

(c) If the Administrator dies, resigns, becomes disabled, or otherwise becomes unable or ineligible to continue to serve, the Executive must appoint a new Administrator, subject to Council confirmation, to serve the remainder of the previous Administrator's term. The Administrator appointed under this subsection may be reappointed as provided in subsection (b).

~~[[c)]]~~ (d) The ~~[[Labor Relations]]~~ Administrator ~~[[will]]~~ must be paid a daily fee as ~~[[set forth by]]~~ specified in a contract with the County, and ~~[[will]]~~ must be reimbursed for necessary expenses incurred in performing the duties of Administrator.

**33-149. Labor Relations Administrator.**

\* \* \*

(b) The ~~[[Labor Relations]]~~ Administrator must be a person with experience as a neutral in labor relations, and must not be a person who, because of vocation, employment, or affiliation, can be ~~[[classified]]~~ categorized as a representative of the interest of the employer or any employee organization.

(c) The County Executive must appoint the ~~[[Labor Relations]]~~ Administrator, subject to confirmation by the County Council, from a list of 5 nominees agreed on by the certified representative and the Chief Administrative Officer. ~~[[The County Council must confirm the appointment.]]~~ If there is no certified representative, the ~~[[County]]~~

Executive must appoint an Administrator, ~~[[with the]]~~ subject to  
 confirmation ~~[[of]]~~ by the ~~[[County]]~~ Council. If the ~~[[County]]~~  
 Council does not confirm an appointment, the ~~[[County]]~~ Executive  
 must appoint another person from a new agreed list of 5 nominees and  
 submit that appointee to the ~~[[County]]~~ Council for confirmation. The  
 Administrator serves a term of 5 years. An incumbent Administrator  
 is automatically reappointed for another 5-year term, subject to  
Council confirmation, unless, during the period between 60 and 30  
 days before the term expires, the certified representative notifies the  
~~[[employer]]~~ Chief Administrative Officer or the ~~[[employer]]~~ Chief  
Administrative Officer notifies the certified representative that ~~[[it]]~~  
either objects to the reappointment.

(d) If the Administrator dies, resigns, becomes disabled, or otherwise  
becomes unable or ineligible to continue to serve, the Executive must  
appoint a new Administrator, subject to Council confirmation, to  
serve the remainder of the previous Administrator's term. The  
Administrator appointed under this subsection may be reappointed as  
provided in subsection (c).

~~[[d]]~~ (e) The ~~[[Labor Relations]]~~ Administrator must be paid a daily fee as  
 specified ~~[[by]]~~ in a contract with the County, and must be reimbursed  
 for necessary expenses incurred in performing the duties of  
 Administrator.

## **Sec. 2. Expedited Effective Date.**

The Council declares that this legislation is necessary for the immediate  
 protection of the public interest. This Act takes effect on the date when it becomes  
 law.

108 Approved:

109 Marilyn J. Praisner March 1, 2007  
Marilyn J. Praisner, President, County Council Date

110 Approved:

111 Isiah Leggett March 12, 2007  
Isiah Leggett, County Executive Date

112 This is a correct copy of Council action.

113 Linda M. Lauer March 12, 2007  
Linda M. Lauer, Clerk of the Council Date